

## **BOARD OF MAYOR AND ALDERMEN**

**May 18, 2004**

**7:30 PM**

Mayor Baines called the meeting to order.

The Clerk called the roll. There were fourteen Aldermen present.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, O'Neil,  
Lopez, Shea, DeVries, Garrity, Smith, Thibault, Forest

Mayor Baines stated could I have...well whatever you want to call him...do we call him Jack, we can call him Ira, you can call him lots of things but...Jack Ira Royer please come up here so we can recognize you properly. I think you should bring your wife with you too, don't you think. Let's give him a round of applause...and Barbara and Claire and all of the Commissioners that are here come up as well. Now, interesting enough Commissioner Bolduc was not able to be here today but he did send me an e-mail which I think you'll get a kick out of. So, I'll take my chances. Anyway, it says:

Dear Mayor:

Due to prior family obligations I cannot attend tonight's meeting where Jack Royer is recognized by Mayor Baines. At times we can all be at a loss for words when recognizing a person's contributions. Working with Jack on the Elderly Services Commission I offer the following in describing our beloved Jack.

A description of Ira "Jack" Royer. For those who do not know him it's Mr. Royer, for those who do know him it's Ira Royer, for those of you that are friends they call him Jack Royer, for those of you who know him and socialize with him they call him smiley, and the rest of us who have worked directly with him refer to him as grumpy.

With the sincerest and deepest respect and admiration we wish you well and thank you for many years of support.

Sincerely,

s/Jeff Bolduc, Chairman  
Elderly Services Commission

Mayor Baines stated so you may want that for the archives, right. It's really an honor for me to be here tonight to honor smiley or grumpy or whatever you want to call him because if there has been one persistent voice around the issue of elderly services and the senior center which is now becoming a reality it's really a tribute to his tenacity on this issue and at times it paused some provision, right, but at the end of the day we continue to roll up our sleeves and got the job done with the support of the Board of Mayor and Aldermen and because of his efforts we're building a senior center where seniors want it, in a location they're

comfortable in and we’re building a facility that will really be a tribute to the elderly of our community now and in the future. So, many generations from now people are going to ask who was at the forefront of this battle and it truly was a battle, I think it was the most controversial project in the history of mankind at times. But, people remain true to the cause and the result of that effort we honor Jack tonight for his many years of service and I would like to read this following Proclamation:

**PROCLAMATION**

- Whereas,** Ira “Jack” Royer has served on the Elderly Services Commission almost continuously since 1986; and
- Whereas,** Jack is an activist for Manchester seniors and has been an instrumental advocate for the new Senior Center building, from the initial planning stage through the on-going construction phase, utilizing his expertise in the building trade to provide input on the construction process; and
- Whereas,** Jack has served as a leader on the Manchester Activity Center Fundraising Committee, having raised approximately \$10,000 through the organization of community events such as the Alpine Club fundraiser and the birdhouse collection. Jack built the model birdhouse replicated by the Manchester Skill Center students, who construct and distribute the houses for fundraising purposes; and
- Whereas,** Jack, through his dedication, generosity and hard work, has improved the lives of countless people through his many contributions to the community.

**NOW, THEREFORE, I, Robert A Baines,** by virtue of the authority vested in me as the Mayor of the City Manchester in the State of New Hampshire, do hereby proclaim today, May 18, 2004 to be

**Ira “Jack” Royer Day in Manchester**

In witness whereof, I have hereunto set my hand and caused the Seal of the City to be affixed this 18<sup>th</sup> day of May 2004.

s/Robert A. Baines  
Mayor

Mayor Baines stated I will now ask Alderman Garrity to join us because occasionally he’s been on the outs with Jack...maybe you still are, I’m not sure.

Mr. Royer stated he’s okay now after he made that vote.

Mayor Baines stated oh, then you’re okay. One of the great honors I have as the Mayor of the City of Manchester is to present the key to the City on occasions such as this and I remind people first of all, Jack, it doesn’t open anything, but it’s really a representation of the doors of opportunity that you because of your hard work and dedication have opened up for the seniors in our community. So, when you look at this key look at it in that fashion,

think of the doors of opportunity that have been opened up for seniors in our community who will be forever indebted to you because of your determination, your commitment and your dedication to this cause. So, presented in “recognition of the service to the citizens of Manchester and to our senior citizens presented today May 18, 2004 Robert A. Baines, Mayor” congratulations.

Ms. Barbara Vigneault, Elderly Services Director, stated it’s been an honor and a pleasure working with Jack over the years. I’ve gotten to know Jack and Rachel quite intimately we’ve had a number of great times and great memories and we’ll always cherish those and we’re still working with Jack. Jack is still involved, he’s the Mayor’s representative on the construction committee so he is still overseeing the project and very involved using his construction skills to make sure that everything is A-okay and Jack is still collecting dollars with the birdhouses around town, so he’s still very, very involved and always will be and even I have had knock out drag out fights with Jack but Jack keeps getting up. So, truthfully, Jack has oftentimes given encouragement to us all and he’s been a great egg and I it’s a pleasure to say thank you, Jack, and we’ll keep on working together. Thanks.

Alderman Garrity stated Jack lives down in the hollow down in Ward 9 off of Brown Avenue and he takes care of a lot of issues down there and he’s on my pothole patrol so I don’t ever get calls for potholes because he calls me and then he calls the Highway Department. But, Jack, you’re a good friend and it’s been an honor to become a friend of yours in the ward and thank you for your service.

Mr. Royer stated I’m not much at making speeches...been an aldermen for seventeen years, I’ve worked for four different mayors, commissioners and I think there’s only one Alderman here and that’s Alderman O’Neil...I just want to thank everybody for working with me during the seventeen years, all of the commissioners and thank you, Bob, for this honor.

Mayor Baines stated before we continue with the agenda I just want to make the Aldermen aware, the community aware of a program that we kicked off this morning as part of the Senior Counts Program which has been a wonderful community-wide effort to reach out to the seniors in our community and we announced today a program called “Are You Okay”. And, it’s a program that’s in partnership with Catholic Medical Center, the Elliot Hospital, ServiceLink, Hillsborough County, and Seniors Count Program. Basically, what it is is a service that’s provided to people who are elderly and sometimes isolated and alone receive one phone call a day every single day to check on them to make sure that they’re okay and if they don’t answer then people are called to respond. So, I want to let people know in the community about this service and if you want to enroll a senior in this program or you want to enroll yourself in the program there’s a number for you to call and it’s a free program and all you need to do is to call ServiceLink and perhaps when this is on television Community Television can put the number at the bottom when they replay it...the number is 1-866-634-

9412 and you can subscribe to the program on an on-going basis or for a short period such as a few weeks after a hospital stay. So, as you're talking to your constituents in your ward if you can tell them about this program and we'll also put information on our web site as well so people can access this wonderful program and the whole effort with Senior Counts...it's all of the community agencies that are working together, they're not writing grants, they're not doing anything but they're sharing resources to reach out to seniors and one of the hallmarks of the program is trying to keep seniors in their homes as long as possible and provide services to them. So, again, it's a great program. And, finally, I want to encourage people in the community to go to The Palace Theatre this weekend, again this is being broadcast live on the 18<sup>th</sup> and they're doing a great show called "Crazy For You", it's a George Gershwin show and Georgie Reagan and Charlie were their Saturday night, Randy Sherman was there as well, it's an absolutely phenomenal show and I would call and get tickets to see it and support The Palace Theatre, it's absolutely fantastic.

### **CONSENT AGENDA**

Mayor Baines advised if you desire to remove any of the following items from the consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

### **Ratify and Confirm Poll Conducted**

- A. Approving a request of the Director of Youth Services to apply for an OJJDP Delinquency Prevention Formula Grant through the State of NH for the Wrap for Youth Resiliency (WYR) Project.  
(Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, Shea, DeVries, Garrity, Smith, Thibault, Lopez and O'Neil voted yea. Alderman Forest was unavailable.)

### **Approve Under Supervision of the Department of Highways**

- B. PSNH Petition #11-993 located on Orange Street;  
PSNH Petition #11-994 located on Jennas Way;  
PSNH Petition #11-995 located on Sheffield Road;  
PSNH Petition #11-996 located on Calef Road; and  
PSNH Petition #11-997 located on Stockholm Street.

### **Informational – to be Received and Filed**

- C. Minutes of an MTA Commission meeting held on March 30, 2004 and the Financial and Ridership Reports for the month of March 2004.
- D. Communication from Carol Johnson expressing thanks for the cards, arrangement and support received during her absence.
- E. Communication from Dr. Elise Tougas, President of the Greater Manchester Clergy Association, recommending that the Board of Mayor and Aldermen take a positive stance toward the concept of the establishment of a halfway house being located in the Manchester area.

## **REFERRALS TO COMMITTEES**

### **COMMITTEE ON FINANCE**

**F.** Bond Resolution:

“Authorizing Bonds, Notes or Lease Purchases in the amount of Seven Hundred Twenty Thousand Dollars (\$720,000) for the 2004 CIP 713204 Public Works ROW Improvement Project.”

**G.** Resolutions:

“Amending the FY 2004 Community Improvement Program, authorizing and appropriating funds in the amount of Seven Hundred Seventy Thousand Dollar (\$770,000) for FY2004 CIP 713204 Public Works ROW Improvement Project.”

“Amending the FY2000 and 2003 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Forty Seven Thousand Three Hundred Fifty Eight Dollars (\$47,358) for FY2003 CIP 610403 Downtown Municipal Infrastructure Project.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Twenty Five Thousand Ninety Eight Dollars and Ninety Eight Cents (\$25,098.98) for FY2004 CIP 510604 Neighborhood Playground Rehabilitation Project.”

**H.** Communication from Deputy City Clerk Johnson requesting a transfer of \$34,620 from Contingency for voting machine upgrade/replacements; and for such purpose Resolution:

“Authorizing the Finance Officer to effect a transfer of Thirty Four Thousand Six Hundred and Twenty Dollars (\$34,620.00) from Contingency to City Clerk.”

was submitted.

## **REPORTS OF COMMITTEES**

### **COMMITTEE ON COMMUNITY IMPROVEMENT**

**J.** Recommending that the Board authorize transfer and expenditure of funds in the amount of \$47,358 (CDBG) for FY2003 CIP 610403 Downtown Municipal Infrastructure Project, and for such purpose a resolution and budget authorizations have been submitted.

**K.** Recommending that the Board authorize transfer and expenditure of funds in the amount of \$25,098.98 (CDBG) for FY2004 CIP 510604 Neighborhood Playground Rehabilitation Project, and for such purpose a resolution and budget authorizations have been submitted.

**L.** Recommending that a request from Parks, Recreation & Cemetery to procure two vehicles through the State of NH procurement process to replace a 1988 panel van and a 1987 station wagon be approved.

**M.** Advising that it has approved a request from Bruce Thomas of the Highway Department to complete various projects enclosed herein as part of the City’s Chronic Drain Program, subject to availability of funding.

**COMMITTEE ON FINANCE**

- N. Recommending that the Police Department be authorized to purchase ten (10) vehicles at a cost of up to \$230,000 and that the Mayor be requested to authorize a transfer of funds to cover the cost from the Police Department’s Fiscal Year 2004 budget, subject to certification by the Finance Officer that funds are available.

**COMMITTEE ON LANDS AND BUILDINGS**

- P. Recommending that a lease agreement, as enclosed herein, between the City of Manchester and the Manchester Artist Association for space in The McIninch Family Gallery located at 1528 Elm Street be granted and approved, and that the Mayor be authorized to execute same, subject to the review and approval of the City Solicitor.

**COMMITTEE ON TRAFFIC/PUBLIC SAFETY**

- R. Recommending that regulations governing standing, stopping, parking and operation of vehicles be adopted and put into effect when duly advertised and posted.

**HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O’NEIL, DULY SECONDED BY ALDERMAN THIBAUT, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.**

**Report of the Committee on Community Improvement:**

- I. Recommending that the Board approve expediting four infrastructure improvement bond projects totaling \$720,000 from the FY2005 proposed CIP as follows:

Street Reconstruction	\$145,000
Brown Avenue	\$175,000
Discretionary Sidewalks	\$350,000
50/50 Program	\$50,000

and for such purpose an amending resolution and bond resolution have been submitted.

Alderman Osborne stated I would like to call upon Mr. Frank Thomas. I would like to have you elaborate a little bit on these projects...discretionary sidewalks...what does that involve?

Mr. Thomas replied first of all the discretionary sidewalks goes into making up our School Sidewalk Program, it goes into making up sidewalks that we sometimes add in with CSO (Combined Sewer Overflow) projects doing streets and whatnot. A portion of that discretionary money will potentially go to provide a public walkway from So. Bedford Street to Commercial Street. I do have a breakdown of those types of projects that I’ll be glad to share with you if you’d like more detail.

Alderman Osborne replied yes, I would.

Alderman Roy stated, Frank, earlier we had a conversation regarding granite curbing versus concrete curbing and some of the effects it has on the City and the taxpayers. The 50/50 Program funded at \$50,000...the comment was made during committee that it runs out every year.

Mr. Thomas replied yes that is correct. Part of what we would like to do with some of this discretionary money that Alderman Osborne raised was to allocate an additional \$50,000 to the 50/50 Program which has presently been identified for funding at the \$50,000 level. The reason why as you mentioned there is quite a demand for that program. It benefits the City as a whole in that for a 50% investment we get 100% of curb installed.

Alderman Roy asked what would you estimate the request level is on a yearly basis, what have the last few years been in requests or in unfulfilled requests from people.

Mr. Thomas replied we have reached our limit of available funding every year so that if it's \$50,000 we go up to \$50,000 and shut off...last year it was up to \$100,000 and we committed those entire funds.

Alderman Roy stated at the funding level you stop taking names or just tell people to call back next year.

Mr. Thomas replied it's a first-come, first-serve basis...so, yes, as soon as we reach our limit it gets shut off.

Alderman Roy asked do you feel if this was funded to our...I know your recommendation to committee was to do about 6,000 lineal feet per year...looking at the \$50,000 funding 2,000 feet...if we were to fund this to \$150,000...

Mr. Thomas interjected are we talking about the proposed concrete asphalt berm program...that was a separate...

Alderman Roy stated I'm melding the two together in order to accomplish both tasks under one program. If we were to fund the 50/50 Program to the tune of \$150,000 we would in essence get \$300,000 worth of curbing which would translate to 6,000 lineal feet.

Mr. Thomas stated that is correct. However, the request that I believe was made at the CIP Committee was an independent annual program not 50/50....50/50 still depends on the homeowner to come up with 50% of the cost...the program that we were proposing would be...I believe we requested funding at \$150,000 would allow us to go in and replace concrete curb or asphalt berm that has drainage problems on an entire street. Doing it under the 50/50 Program...in a lot of respects it gets done piecemeal as the need of the homeowner arises. Presently, under the 50/50 Program about 40% of the program does go right now through to

replace deteriorating concrete curb. But, again, our proposal was to have an independent program where we could go in in a logical fashion after we set priorities and do an entire street and not do it in a piecemeal fashion.

Alderman Roy asked at what level do you think we would not have people turned away from the 50/50 Program?

Mr. Thomas replied I think in about the \$150,000 range.

Alderman O'Neil moved for discussion. Alderman Gatsas duly seconded the motion.

Alderman DeVries stated since we're discussing the 50/50 Program and I'm sorry I didn't prepare you to bring this information tonight, so you may not know it off-hand...but, can you give me an approximately distribution of use...people who are making use of the 50/50 Program by ward. Can you give me the breakdown, I know it's been down by your staff.

Mr. Thomas replied we do track it by ward but quite frankly I don't have that information. Again, the 50/50 Program does, in some ways, there's more activity I think in the higher priced neighborhoods.

Alderman DeVries stated I guess that is the point that I wanted to make because part of me applauds Alderman Roy for trying to assist with the Concrete Curb Program...the problem is I certainly recognize that in areas of the City that have the higher percentage of first-time homeowners it tends to be...they don't have the disposable income or the discretionary income to participate in the 50/50 Program and that was certainly part of the reason that we were looking to assist the deteriorating concrete curb to a different type of program. If they had the extra thousand to five thousand dollars to participate in that program to replace the 50 to 150 feet of frontage that they had of concrete curb I think they would be participating. Unfortunately, they just do not all have that kind of discretionary income...50/50 when I have tracked it for the last two budgets...this will be the third budget that I've seen it, is predominantly a north end program although there are other wards that do participate in it...it predominantly goes to the wealthier of our homeowners in the City and I think you agree with that.

Mr. Thomas stated yeah, I don't think I would focus on Ward 1 completely...but I think your intent is there.

Alderman Shea asked, Frank, how long has the 50/50 Program been in existence?

Mr. Thomas replied for a long time...I would say probably 15 to 20 years.



Alderman Shea stated during that 15 to 20 years the people have had granite curbing installed and have paid half of the price.

Mr. Thomas replied that is correct.

Alderman Shea stated I know there are several people in Ward 7 as we both know that have had granite curbing installed and I think that I would very definitely be in favor of raising the amount of money that this program has there's no question about that. We did have a lengthy discussion at the CIP Committee meeting concerning your proposal which, in fact, was tabled for consideration, however, I believe that over the course of 15 to 20 years when people have put in their own money to have curbing I do feel that this is an equal opportunity for all residents and I know that there is no discrimination, it's based on the fact of a person who's willing to pay that and also it is putting that as a priority in their lifestyle. So, the other consideration obviously has a more serious implications that have to be examined and I think that that will in due course be examined and I think you'll tend to agree that I think at one time you quoted to full implement the replacement of concrete curbing would probably run in the five to six million dollar category over the course of the time limit that would be involved. Now, I may be misquoting you but I did think that there was some quote in that particular vein.

Mr. Thomas stated again I don't know the exact number but there is approximately 150,000 linear feet of concrete curb that's in the City that's deteriorating. Presently, we have a unit price of approximately \$36 per foot to replace including pavement, etc., etc. So, it is a very large number that you're talking about. Regarding people who have taken advantage of the 50/50 Program and us arbitrarily going in and putting curb down the street as you know we have a lot of programs such as the School Sidewalk Program that install curbing, construct sidewalks along entire streets on one side of the street and a person on the other side of the street may have paid to have a curb put in. Just to go back, the reason why we proposed an independent annual program to replace this concrete curb is that again I think doing it in a logical fashion where you can go in and do an entire street has a couple of benefits...number one, you'll get a better unit price because you've got a contractor that's going in and doing an entire street instead of a couple of hundred feet and in addition it's done by sections of the City streets instead of property by property. I think the Board of Mayor and Aldermen have realized over the years that curbing/sidewalk programs are very, very important to the residents of the City of Manchester and for that reason we have a lot of different programs as Alderman Osborne alluded to as discretionary, but that discretionary is broken down into a lot of categories...between the 50/50, School Sidewalks, discretionary with the CSO work and discretionary where I can go in and fill in a whole on a school walking route...I think it does make sense to have a lot of problems.

Alderman Shea stated you peaked my interest...when you fix sidewalks and walkways around schools is that a chargeback to the schools?

Mr. Thomas replied no it isn't.

Mayor Baines stated good try though...I think the program is over 25 years old, Frank.

Mr. Thomas stated it probably is.

Mayor Baines stated I was a first-time homeowner 27 years ago and we did it with just asphalt because we could afford...and my father-in-law paid, I remember.

Alderman Gatsas stated I think the \$350,000 you were going to offer Alderman Osborne a breakdown could you tell me how that three-fifty is broken down.

Mr. Thomas replied yes. A School Sidewalk Program that has come up on a priority list is South Jewett Street from Vinton to Weston Road is \$220,000, we have Milford Street from Main Street to Tilton Street is one of our CSO connected projects, we have as I mentioned \$50,000 allocated to potentially construct a walkway between So. Commercial Street and So. Bedford Street, we had also identified out of that \$350,000 a Lowell Street sidewalk, which we most likely will have to cut back on because we're trying to reallocate some funds to the 50/50 Program.

Alderman Gatsas asked can you explain the So. Bedford Street \$50,000 allocation, please.

Mr. Thomas replied because of the gas light district development that's potentially going to take place south of Granite Street the sports facility, the hotel complex that's being built down at the end of So. Commercial Street there was a desire to be able to provide direct access in an east/west direction and initially we looked at going through WMUR property out of a PSNH easement area...I later talked to the general manager and there was some interest shown by WMUR to allow us an easement or to sell us the property.

Alderman Gatsas stated I guess there's no reason why...I guess I go back to where Alderman Shea is wants and needs...I think that that \$50,000 certainly can be looked at in the '06 budget and appropriated when we're going through that process to expedite the matter and I think that \$50,000 certainly can be allocated in a wants situation for '05.

Alderman Thibault stated, Frank, I just want to understand something here. The 50/50 Program that I remember the people used to pay 50% for the sidewalk but if they wanted curbing they had to buy the curbing and the City used to install it.

Mr. Thomas stated the program has evolved over the years. At one time my staff did the actual construction and as you mentioned the cost of the sidewalk materials was split 50/50 the homeowner would buy the curbing and we would install the curb but because of our

consistent commitments to do street reconstruction work our two curbing sidewalks crews that used to get involved in the 50/50 Program now are involved in street reconstruction efforts and as a result we now have to contract out. But, when we do contract out keep in mind that we contract out...if there's \$100,000 allocation that's a \$200,000 contract, so where we're getting unit prices based on volumes which is still a lot better than what a homeowner typically can obtain by themselves going independently.

Alderman Lopez stated in committee we talked about this, Frank, and just to let you know we talked about the safety issue on these curbs whether an elderly person or a youngster could fall off and then the liability of this...things needs to be done and there needs to be a plan and it was also indicated to Bob MacKenzie the work that Kevin Sheppard and yourself might be other types of funds that we can use in certain areas of the City to take care of some of these curbing. So, I think they're going to work on that but I just want to clarify one thing...could you clarify for me on the \$50,000 were you saying decreasing that or increasing that.

Mr. Thomas replied right now it's been identified in CIP as \$50,000 for the 50/50 Program. I want to increase that and I would like additional money but if I don't get additional money from you, the Board, what I intend to do is take some of the money out of that \$350,000 which is classified as discretionary and allocate it into the 50/50 Program.

Alderman Lopez stated I don't know how it can be done but I think the comment is what it is and that people can afford to do it, but there are other places in the City of Manchester that people cannot afford it and I think it behooves us as a City to take a look at some of these areas and see if we can't clean up some of these streets especially in direct line where kids go to school...that's a top priority and any 50/50 should be eliminated if it pertains to school children walking to school and we've got to do that and take that money...if we have to take that money and do it, just a comment. But, the whole thing has to be looked at in a new age.

Mr. Thomas stated as I mentioned over the years there are a lot of different programs that we have and part of the discretionary pot is a small pot of money that I can allocate to fill in a gap as you mentioned that may be a continuous school sidewalk route but unfortunately there are little areas for whatever reason the sidewalk was never constructed. I had the ability to go in and fill in those for the safety of those going to school.

Alderman Shea stated, Frank, I missed the first one you said \$200,000 and what is that earmarked for you said Vinton Street...that would be in my interest as I live on Vinton.

Mr. Thomas replied So. Jewett Street...the School Sidewalk Program as you know we have a lot of streets that are identified that need sidewalks and So. Jewett Street has been on that list...on the west side...as you know there's a portion that's constructed now and this will continue...

Alderman Shea stated it's going down toward Weston Road, is that it?

Mr. Thomas replied that is correct.

Alderman DeVries stated I would hope that you would not arbitrarily shift the funds between the programs without having a better sense of direction from the Board. It is not my intent to undermine the 50/50 Program. My intent was to seek funding for additional or new program. But, I'm certainly not in favor of increasing a program that, in my opinion at least, is going to the benefit of those who can afford to pay into a granite curb replacement or granite curb program. It's not my intention to increase that from \$50,000 to any greater amount and I would like to at least have the opportunity to weigh in on that before that takes place. I do have areas...if you need additional areas identified where the discretionary sidewalk monies could be used if kept in tact. And, maybe that's how we will get granite curb into some of the areas where an entire streets needs concrete curb replaced with granite curb.

Mr. Thomas stated we will come back to the CIP Committee with a defined overall program and it could be debated more at that level if you'd like.

Mayor Baines stated I was just going to suggest that a lot of these nuts and bolts issues could really be hammered out in committee, that is why we have the CIP Committee to take care of the details.

Alderman Gatsas moved that we reduce the \$720,000 to \$670,000 and take the \$50,000 for the Commercial Street/Bedford Street transport or sidewalk and allocate it in the '06 budget and expedite it as we've done many projects in the past and reduce the spending in this project and that's CIP cash...maybe we could move it to a vehicle that Frank's looking for and let him buy a vehicle.

Mayor Baines stated this already went through committee and the committee recommended this, so let the Chairman of the Committee respond and then Mr. MacKenzie.

Alderman O'Neil stated the committee did have discussion about these four items about a week ago. There was consensus with it, we did agree tonight that we needed more information on the concrete curb and placed that on the table. My recommendation would be that we continue to move forward with this.

Mr. MacKenzie stated I just wanted to add in fairness to Mr. Thomas that when the Board voted to discontinue So. Bedford Street...there were some concerns about continued pedestrian access...the Board did ask the staff to go in and review and find alternatives and look at ways of providing continued pedestrian access. So, that's why Frank Thomas has

been working with WMUR and our staff has been working with them to try and identify how that connection could be paved.

Alderman O'Neil stated just a comment...I represented Ward 4 for six years and since I've been an Alderman At-Large I've had the opportunity to refer people...I believe the process is you got o the City Clerk's office, you fill out a form and that starts the whole process and Highway goes out and does an estimate...if you agree with it you get it first-come, first serve and you get a check in. Although the numbers may show that possibly certain sections of the City have taken most advantage I have never had a person say to me in any ward that they think this is an expensive program. I've had more people say to me I'd wish you'd put more money toward it. So, there's a little misconception that only certain sections of the City are getting this and it's discriminating against other sections. I don't agree with that at all.

Alderman Guinta request to move on the question. Alderman Garrity duly seconded the motion. Aldermen Gatsas, Osborne and DeVries duly recorded in opposition.

Mayor Baines called for a vote on the motion to accept, receive and adopt a report of the Committee on Community Improvement. The motion carried with Aldermen Gatsas, Osborne and DeVries duly recorded in opposition.

**Report of the Committee on Joint School Buildings:**

- O. Advising that it has authorized an expenditure of up to \$381,106 from the School Facilities Improvement Project's contingency account to cover costs associated with the addition of constructing two stairwells in the additions at Southside and Hillside Middle Schools. The Committee further notes that it has referred this matter to the City Solicitor for a ruling as to who is responsible for funding.

Alderman Gatsas asked is there someone here that can explain how somebody missed two staircases.

Mr. Thomas replied as part of the School Design/Build process what we did in order to have all the proposers bidding on a base package instead of base line drawings that were developed by Parsons-Brinkerhoff...in conjunction with the Manchester School District, the State Fire Marshal's office, the Manchester Fire Department, and the Manchester Building Department...at that time all these different groups and parties did not feel that there would be a need for these at two schools Southside and Hillside Middle Schools. As Gilbane got into the actual design of these facilities and did an analysis as far as the exits, pathways of egress, the occupancy and whatnot it was determined that the existing exits were not sufficient to handle the capacity. As a result, there was a need to add staircases. Now, this cannot be a fault of the Design/Build, the contractor because he was working off these base plans that had basically the concurrence of all the different agencies that I had mentioned,

but once this detailed analysis was done after the designs were completed there was a need to add these additional staircases in order to provide safe exiting for the students.

Alderman Gatsas stated, Frank, I find it very difficult to understand that the Building Department, the Fire Department and all the others that you named looked at those plans and understood that the egress and service to those buildings were fine.

Mr. Thomas stated there wasn't at that time a detailed capacity analysis done of exiting in an emergency situation. Again, what was looked at were the plans and everybody that I had mentioned kind of gave their stamp of approval and a fact that they were reviewing something that didn't have all the detail analysis done to it at the time.

Alderman Gatsas stated it's very difficult for me to understand that the Fire Marshal at the State level would even think about approving a plan without understanding...

Mr. Thomas stated the plans weren't approved...again, these were base line drawings basically showing what was being proposed in order for everybody to propose equally on them. They weren't finished design drawings that you would normally have prior to go on out in the normal design bid process. So, they were base drawings with an area of additions shown on the plans, the existing egresses were shown on the plans but as I mentioned these weren't final detailed design plans by a professional that had capacity analysis done to it.

Alderman Gatsas asked of that \$381,000 how much of that is contingency?

Mr. Thomas replied it's all contingency.

Alderman Gatsas asked no, no...contingency on the \$381,000 because the plans you brought before us the last time for a million and change had \$100,000 worth of contingency. How much contingency is on top of this number?

Mr. Thomas replied I don't know how to respond to that I'd have to get back to you on that. As far as I know this is the cost for constructing these two sets of stairs.

Alderman Gatsas stated the last time the proposal came before us for abatement on the asbestos there was \$100,000 of contingency in that plan.

Mr. Thomas stated it could have been because again asbestos abatement is not a quantifiable number until you get in there and start removing it. I think as far as the construction of the stair towers with a completed design you can do a detailed takeoff and the cost is the cost. However, again not having the exact information that's just my off-hand opinion I'll be glad to get details.

Alderman Thibault stated I would just like to respond to Alderman Gatsas if I might I sit on the Joint School Buildings Committee. What happened was that the contractor was here to explain to us exactly what happened and the Joint School Committee agreed with him that there was a flaw in the design/build and it would not handle the capacity for the increase in these two schools which is why we went along with it. When you talk about contingency I believe that in that overall school plan there's about a million dollars in contingency and I believe after that we end up with about \$700,000 in contingency on the whole school project.

Mayor Baines stated a motion would be in order to accept the report.

Alderman Thibault moved to accept, receive and adopt a report of the Committee on Joint School Buildings. Alderman Forest duly seconded the motion.

Alderman Porter stated this was noted that the matter was referred to the City Solicitor for a ruling as to who was responsible for funding...could I direct that to the Solicitor, please.

Deputy City Solicitor Arnold stated Mr. Clark has met with both Mr. Thomas and Mr. Tim Clougherty...he's busy at this point formulating an opinion and has not yet arrived at one yet.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

**Report of the Committee on Traffic/Public Safety:**

**Q.** Recommending that:

- 1) the current Center of NH Garage Operating Agreement be extended to June 30, 2004; and
- 2) the Operating Agreement renewal effective July 1, 2004, enclosed herein, be accepted; and
- 3) the Mayor be authorized to execute said agreement subject to review and approval of the City Solicitor.

Alderman Lopez stated if I'm reading this right I'll refer to the City Solicitor because I think he worked on this...I noted some conversations back awhile ago that we're paying half under Number 11, Article 5 paragraph 5.5...I know there's been some discussion as to why we're paying half of the cost and if I'm reading this correctly and correct me if I'm right or wrong...if I'm correct we're going to pay half.

Deputy City Solicitor Arnold stated with respect to the revenues from Verizon events we collect half the revenues, we pay half the expenses.

Alderman Lopez stated I know that about a year ago we had some conversations and I'm going to ask Randy Sherman if he'd like to weigh in on this does he agree with this?

Mr. Sherman replied I would agree that that's what the agreement says that you won't get half the revenues and pay half the expenses. I would hope that all of the Aldermen received a letter from the Finance Officer related to this matter where we have asked that...it should have been delivered, if you don't have it I do have extra copies.

Mayor Baines asked when was this sent out.

Mr. Sherman replied it was actually put in the individual mailboxes.

Alderman Lopez stated I think it's important, your Honor.

Mayor Baines stated yes it is important.

Mr. Sherman stated I'll continue to speak if that's all right, Mayor. Attached to the letter is a six-month analysis of the revenues that we've been getting from Verizon events. We have been operating under this scenario for a year now as far as the splitting maybe a little less than a year. Once you get the document in front of you what you'll notice is that on most events we actually are losing money and the reason that we're losing money is that we have contractually obligated the City to share the same revenues twice. Under the Management Agreement with SMG for the arena they get \$0.80 per every individual for the first 6,000 individuals that attend an event and the way we actually do it is three people per car they get up to 2,000 cars that means they get up to \$2.40 per car. By now adding the Center of NH into the equation and sharing 50% of the revenues that we get from the Center of NH with the Center of NH you effectively have committed the same revenues to two different parties. If everybody has a copy now...we ran out, I apologize...if I can just look to the first page here and I'll walk across. The first month that you have is November when we went back and started tracking this which is the first month of SMG's fiscal year...what we've really done is we've laid out the event along with the time and the day that the event occurs...the next four columns layout where the revenues were collected for that particular event...we have taken some liberty with the meter revenues because they're not collected every day. When we did get a collection we allocated it to the weekdays prior to the collection because we don't charge on the meters on the weekends...the next column over is the 50% of the revenues from the Center of NH going to the Center and then there is actually an offset of the expenses that they are paying because the City is only paying half of those expenses...the next to last column is the amount that goes to SMG that flows into the arena and that again is based on that \$0.80 to the first 6,000 patrons and then the last column is the event gain or loss. Now, if you go down for those six months you'll see that there are actually few events where the City actually now turns a revenue positive on an event-by-event basis. If you flip over to the second page where the totals are you'll see that after this six month's that we've tracked the net loss is \$132,000 and the amount that we've given to the Center of NH is



\$104,000 which is a net of \$128,000 of revenues and a credit back of \$24,000 for the expenses.

Alderman Lopez stated I remember the conversation back over a year ago when we extended...and we agreed to the 50/50 and I think from financials that whoever negotiated this took advantage of the situation...I surely don't think that we should be losing money with the spaces that we own and whatever has to be done...it was even suggested at one time that if they could calculate the amount of money that we needed and somebody come up with a good formula to even sell them those spaces and get rid of it as long as we got revenues for the civic center. So, I wish this would not pass tonight until we negotiate a better deal than this because we're losing money.

Alderman Guinta stated, Randy, I want to make sure I understand these figures...the Center of NH collects the revenue, half of the revenue goes to the City of Manchester and then we turn around and pay SMG \$4,800 almost on every single event regardless of whatever revenue comes to the City?

Mr. Sherman replied the Center of NH takes 50% of the revenues generated at the Center of NH...

Alderman Guinta stated okay so just take the \$11,103...

Mr. Sherman stated and then SMG the Management Agreement with SMG is that regardless of what the City is collecting we're giving them \$0.80 per individual that goes to the arena for the first 6,000 attendees.

Alderman Guinta stated so on the top line \$3252 was collected...half of that goes to the Center and half goes to the City, correct?

Mr. Sherman replied correct.

Alderman Guinta stated so \$1626 to the Center and \$1626 to the City and then we turn around and pay SMG \$0.80 per patron.

Mr. Sherman replied correct.

Alderman Guinta stated so you could make the argument that of the two deals that's the more arbitrary of the two deals...the \$0.80 per patron, not the 50/50 split and that's the one we should be renegotiating. Could you make that argument?

Mr. Sherman replied I wouldn't make that argument...

Alderman Guinta interjected not would you, could you because you've been making the other argument for a year now and it's frustrating that Finance is interjecting policy as opposed to fact.

Mr. Sherman stated you could make that argument but you just wouldn't have a foundation to make it on.

Alderman Lopez interjected clarification, your Honor. Just for clarification I remember a conversation that I think the Finance people came in when we approved the 50/50 and they were against it at that time and said we would lose money. I think this just proves that we are losing money and it's not a good deal for the City.

Mayor Baines stated I'd ask Tom Arnold...because you know we've been around the horn on this issue for about two years now I think, it seems like two years and it's been to committee and out of committee and we've also had the internal auditor look at this and Randy can refresh my memory on this whole process but I remember when Kevin looked at it he really seemed to indicate and I don't want to speak for him and don't want to speak inaccurately, so at least correct me that he sort of indicated was very difficult to figure out how exactly to do that because of the way the garage is set up because the spaces are really shared spaces and you really almost have to go into the garage and start constructing on walls saying this is the City space and this is the Center of NH space...aren't those some of the complicating issues here, Tom, did I state it correctly?

Deputy City Solicitor Arnold replied I think you have it's been a very tough situation since the very beginning. I would remind the Board that part of the problem here is that back when the Center of NH was built in '81-'82 as part of the agreement with the City they have the right to lease up to 600 spaces in that garage which I think there are a total of 1,004 if I remember. So, they have a lease agreement with the City, which they pay somewhere in the area, if I remember correctly, \$125,000 a year to lease 600 spaces in that garage. It then became a problem of allocating the revenue when the spaces were not segregated, we could not tell which spaces the cars were parking in and in light of that situation there was discussion of doing a 50/50 split. There was some argument prior to that by the Center of NH that they ought to get 60% since they lease 60% of the spaces. There was more than one vote by committee and by the Board to go along with the 50/50 agreement and quite frankly we negotiated on that basis based on those votes.

Alderman Guinta stated two things...I would certainly echo what the Solicitor just said that's accurate. Secondly, part of the problem in addition to that is your taking 50/50 revenue at the Center but then your charging a per patron rate at the Verizon. They could park in the Center, they could park in the garage, they could park at a meter, they could park in private parking as many of them do and pay \$10.00 yet we're still paying \$0.80 per patron at the civic center. So, again I would argue that the agreement that we should renegotiate or review

is the per patron agreement because not every patron is paying the City a parking fee. I don't know how many of the patrons are actually paying a private entity to go park \$10.00 per event across say at Richdales or down the street at Michael's Design or down the street at any of those stores. You go as far down as Bee Bee Shoes and people are parking there yet we're paying a rate to the civic center for those people. So, you're not looking at the total equation when the Finance Department presents this. I think if you're going to look at one, look at all of it. Don't point to the Center of NH agreement only and say it's the fault of that agreement. I'll also remind the Board that the Center of NH came down, they were at sixty or seventy percent initially and they acquiesced to a 50/50 and moreover wouldn't it be true, your Honor, that the City actually from this revenue gets a payment back from the civic center, isn't that accurate.

Mayor Baines stated, Randy, I don't know how the mechanics of that work...before we go to that is Alderman Guinta's premise...you say it didn't have foundation...what did you mean by that, Randy or Tom?

Mr. Sherman replied you signed the Management Agreement with SMG over three years ago probably closer to four years ago at this point and for that agreement they are providing you protections against operating losses. They are at risk and they know that those revenues are coming in and that was a guaranteed revenue flow to them. Now, to come back four years later and say well we're going to take those same revenues and offer them to a third party and by the way we now want to go back and renegotiate your Management Agreement...I just don't think that's a fair presentation of the situation that you have here.

Mayor Baines stated I may concur with that but his premise is absolutely correct in terms of the cars parking in all of the different spots and we're paying a fee attached with it even though we're not getting revenue from it.

Mr. Sherman stated you also have in the agreement just to let everybody know that if you're charging more than an average of \$3.00 a car because the way the agreement is actually written is that they can get 80% of the charge that the City is charging to park which we initially set it at \$3.00. So, if the Center of NH is actually charging \$10.00 the arena actually has the ability to come back and say we'll you're charging \$10.00 and not \$3.00 we really should be getting \$8.00 not \$2.40.

Mayor Baines asked Mr. Arnold you've been negotiating around this issue for how long now?

Deputy City Solicitor Arnold replied about a year-and-a-half.

Mayor Baines stated the argument that the Center of NH might have a case for the 60% because of the way they control it, is that a valid argument that you've had to deal with. Do

you think you could go back and say we want the City to have 60% or 70% or whatever...what's your feeling on negotiations?

Deputy City Solicitor Arnold replied the Center of NH has argued that given that we cannot determine where the cars are parking that they ordinarily would be entitled to 60% since they lease 60% of the spaces in the garage and the City controls 40% of the spaces.

Mayor Baines asked what would be the argument, what would the Finance Department like to see in terms of the City to negotiate to deal with that issue with that obvious constraint?

Mr. Sherman replied first of all I would say that if you looked at most of the revenues that you're getting at the Center of NH and divide it by ten on very few occasions do you go over the 400 spaces that the City controls. Second, I would say that when the Center of NH holds an event and they go over 600 cars they don't share any of their revenues with the City for those parking and I'd also say that the Center of NH rents parking spaces to the office tower over there as well and those revenues are not being flowed through to the office tower they're taking them at the Center of NH, so to just argue a 60/40 split again I don't think is a reasonable argument and if you're going to share your revenues with the Center, I think that the Center should share their revenues back to the City. The other alternative that you do have is that they feel that they are truly leasing those 600 spaces then maybe it's time for the Assessors to review that lease arrangement and it's possibly now taxable property that you have over there not unlike what you just did with the Canal Street Garage.

Alderman Shea stated I don't want to go back to the original naysayer here when we set up that deal...it's coming back to haunt us because SMG has complete, total, absolute control over the contractual agreement. They would not go along with the \$1.00 surcharge, they certainly won't want to break this agreement, they're in the gravy train, they're making money, they're doing it very well competently and the City of Manchester and other people feel that this is for the benefit of the electorate, but in terms of...in my judgment the \$0.80 per car or whatever is a signed agreement which should stay. I think that what we should try to do is either get out of this agreement, either turn over the garage to these people or do something because it doesn't make much common sense for us to continuously lose money on an arrangement...apparently, we own the garage, so how can you lose money when you own something unless you do something in a negotiation that is probably not to your advantage. So, what we have to do is sit down and change the provisions of what we can change, in other words, if we as a community don't want to continuously lose money we have to say look do you want to buy the garage or do you want to renegotiate some sort of a situation whereby we can get out of this agreement. I hear Alderman Gatsas sort of snickering and laughing and saying I've said that for months we should get rid of it...

Alderman Gatsas interjected thank you, Alderman, I've said it for a few years.

Alderman Shea stated so basically that's really what we should have to do...\$132,000 after six months...double that it's about \$300,000 or \$260,000.

Mayor Baines interjected I would prefer we sell it and they have an option to buy it I'm pretty certain and we wish they would exercise that but they haven't.

Alderman Shea asked can we somehow get out of this present agreement by non-renewal of it. At the end of it can we say it doesn't exist anymore so somehow or other we're not in agreement with you, is that possible? Can one party disagree with the other party as we do on other agreements, Tom?

Deputy City Solicitor Arnold replied I guess we can certainly disagree but what I would point out is that under the original land development agreement they have the right to manage the garage.

Alderman Shea asked do we have the responsibility to own it?

Deputy City Solicitor Arnold replied no and quite frankly as part of these negotiations there was some discussion of selling the garage and the point was put to the Center of NH that subject to this Board considering and approving it staff thought that it would probably be a good idea if they bought the garage. At this point the feeling is that it is a burden to the City.

Alderman Shea asked can they operate a garage that we used to own, can we close it down and say we don't want it to be operated, can we do that? Not that we would but I'm saying...

Deputy City Solicitor Arnold replied the short answer to that question is no because they have the right to lease 600 spaces and I don't think you can deprive them of that lease right by closing the garage.

Alderman Shea stated so under the present lease agreement we lose money, so if we continue to lease the garage to them we continuously lose money.

Alderman O'Neil stated not that I was around during this time possibly Alderman Thibault was but there were certain agreements made in the early '80's to get that hotel built and get that office tower built and we're still living with those agreements today with the garage as was Alderman Guinta's right on track as there was with getting the arena built and I appreciate Randy's honesty as part of...I think it goes back even before SMG, it goes back to Ogden their predecessor SMG inherited the contract as part of the guarantee of no operating deficit to the City which is a very unique agreement in this country. Most cities accept the risk but also take all the revenue, but as part of...that was part of the agreement that was voted on and approved...there were other revenue sources that were included in part of that

and parking in this garage was one of them, so I don't believe we should make the garage the bad guy on this it's just a number of old or past agreements that the City has entered into and it's come home to roost now because there's a lot of activity in downtown Manchester. So, thank you.

Alderman Roy stated a couple of concerns I'm going to share with this Board and then as couple of comments. The first being is the way the meters are collected...on the last page of that report you have a concert starting at 7:30 PM and bringing in close to \$2,400 in meter revenue and for something that starts shortly before our meters expire I have a very hard time thinking that that's all contributed to a concert on a Monday night. That being said I'd like some accounting or better accounting of how the meter numbers are attributed to different events at the Verizon, but one thing that I did want to bring up as I was not party to either of these contracts when they were first given out and I do appreciate staff's time and involvement in getting the best contract for the City for our net loss of \$132,000 per year we are bringing (on average) over 6,000 people to the downtown area on a consistent basis and so when you look at the small picture yes we loss \$133,000 but when you look at the big picture and I'm sure the Assessor's can attest to this what the Verizon has done and though the agreements are not perfect it has been a definite bonus to the City, so let's look at the big picture, not just the small \$134,000 loss.

Alderman Gatsas asked, Randy, can you show me in this or maybe Mr. Arnold...can you show me in this Operating Agreement what the City receives for the 600 spaces...seeing that we are leasing 600 spaces.

Deputy Solicitor Arnold responded it is not in the Operating Agreement. It is a separate Lease Agreement.

Alderman Gatsas asked what does that lease agreement call for.

Deputy Solicitor Arnold answered I don't remember the exact payment. My recollection and relying on my memory is I often say dangerous but it is that they were paying on the order of about \$120,000 a year at present time. If I could, Mr. Lolicata might be able to provide a more accurate figure. I don't know.

Alderman Gatsas stated certainly when we look at this analysis that has to be part of this whole analysis somewhere. You just can't look at it without that picture being in there because that is a gross rental to the City.

Mayor Baines asked Mr. Lolicata would you like to comment on that. What is the City receiving in terms of leasing the spaces to the Center of New Hampshire?

Mr. Tom Lolicata answered first we are down to 400 spaces and I believe it is...in the last year we lost 200 spaces. I can't give you an exact figure.

Alderman Gatsas replied my question is this. Right now they are leasing 600 spaces from the City because my understanding is the City still owns that garage.

Mr. Lolicata responded correct.

Alderman Gatsas asked what are they paying on a monthly basis per lease per space for the City – for the 600 that they have.

Mr. Lolicata answered I can't give you that number. I want to give you something that is exact and I can get that for you.

Alderman Gatsas asked how about if we try a number like \$30/month. Is that anywhere close?

Mr. Lolicata answered I don't think so.

Alderman Gatsas asked is it less than that or more than that.

Mr. Lolicata answered I would say a little bit more.

Alderman Gatsas asked so if it is more than that, that is still some allocable share that needs to be figured in this computation because you can't arbitrarily say that the garage at the Center of NH we are losing money with if we get rent for 600 spaces.

Mr. Sherman stated I want to make sure that I clarify the point here. I am not saying that the Center of NH is losing revenues on its total operation. Yes, there is a payment that comes from them for the lease of their 600 spaces. Yes, we get other revenues for daily usage down at the Center of New Hampshire. This analysis is dealing exclusively with the event revenue from events that are being held at the arena.

Alderman Gatsas stated but we can't control...obviously there is a deal that was done with Verizon. There is nothing we can do about that deal. That is a negotiated deal. It is done and over with. It is water over the bridge. I guess I come back to where Alderman Shea was going is that two years go I made a recommendation that we should be selling this. They have the option to buy it but they have the right of first refusal so if we put this on the market and somebody comes to us and makes us an offer they must at that point exercise their right of refusal or they are dealing with another tenant.

Mayor Baines asked didn't we put that on the market. I thought we did put that garage on the market.

Mr. Sherman answered the very first time, yes we did.

Alderman Gatsas stated the very first time all three of them were together. We had no bidders for any of them but we negotiated a contract with somebody who wasn't even a bidder the first time on a garage as we all remember...

Mayor Baines interjected isn't that water over the dam.

Alderman Gatsas stated sometimes you remind me about water over the dam and sometimes I have to remind you about it. I would like to make a recommendation that when we are done with this issue we put them all on the market.

Alderman Smith stated I would like to address this to Tom Arnold and Randy Sherman. On May 5 we got a letter from you, Tom, stating that staff including Tom Lolicata, Denise Boutillier, Kevin Clougherty and yourself recommended acceptance of the proposed parking garage and you submitted it to the Traffic Committee. We accepted the report on that faith and I have to agree with Alderman Guinta on this. I don't think we should blame the Center of NH. If that is the case I wonder if Randy Sherman and Kevin Clougherty are on the same page.

Mr. Sherman stated we have all along, the Finance Department said that we think entering into this agreement you are obligating the same revenues to two different parties and you are setting yourself up into a deficit position. We have worked with Tom Arnold to put together this agreement to make sure that it works if adopted. There were a lot of procedural issues on how you split the revenues and how you count the revenues and how you split the expenses. We worked with Tom on those fine points of the agreement but when it comes down to the dollars the agreement is costing you revenues that you are not collecting.

Alderman Porter asked Randy is this an actual loss that impacts the tax rate or is it an accounting procedure. Does money go back to the Center of NH in the form of a check?

Mr. Sherman answered no. They only give us half of the revenue. So in the first column on the schedule where you see the revenues, you will see Center of NH and on that 11/1 event where it says \$3,252 they are not giving us \$3,252. They are actually giving us \$1,626. So we picked up the entire revenue and then four columns over we show how much of that was retained by the Center. So it is an actual loss.

Alderman Forest stated in supporting Alderman Guinta as far as supporting the Center of NH 18 months ago and I am still on the Traffic Committee but 18 months ago the Center of NH



problem came to our Committee. Actually, the City of Manchester owed the Center of NH money, which they weren't paying. The original contract was 60/40 with the City and somehow it was changed when the civic center was built to 50/50 and the Center of NH with negotiations agreed to come down to 50/50 and accept that offer with the City. They also agreed to get less money than we owed in order to settle this and this is where we are now. They bent over backwards to negotiate with the City for this. I think we should be moving on this.

Alderman Roy asked Randy could you explain the GAPA Arena Expense.

Mr. Sherman answered yes. What they are doing is giving us a payment back for half of the expenses of running the garage during events. So they are taking half of the revenues and reimbursing us half of the expenses.

Alderman Roy asked so if we were to run the garage on 3/1/2004 the expense would be \$398.91 times 2. That is the cost of running the garage for an event – less than \$800.

Mr. Sherman answered correct.

Alderman Roy stated and the Center of NH took in \$5,922 and gave us \$2,961.

Mr. Sherman responded yes.

Alderman Roy stated that is a pretty profitable business. If this was a taxable property and I guess this would be a question for the Assessors, what do you feel it would add to the tax base?

Mr. Stephan Hamilton stated we would have to first determine whether it was taxable because the original lease agreement with the Center of NH for the garage may or may not have addressed whether or not taxes were to be paid. Then further complicating that would be this profit sharing back with the City arrangement. I am not sure exactly what would be valuable.

Alderman Roy stated I will ask you more directly. If we sold the parking garage what do you feel the tax base increase would be?

Mr. Hamilton asked for the entire parking garage or for...there are two separate issues. I could see this having an assessed value of \$5 to \$6 million.

Alderman Roy asked, Mr. Arnold, is there any provision in this contract that would prohibit the sale and the discontinuance of this contract.

Deputy Solicitor Arnold replied it would not prohibit the sale. As a matter of fact there is a provision in the contract that provides that if the garage is sold this contract or this operating agreement will terminate as of the date of transfer of title.

Alderman Gatsas stated I guess the one question I have, Randy, is I look at some of these events...can you tell me was there a charge to get in to the Verizon for the robotics regionals.

Mr. Sherman responded I don't know.

Alderman Gatsas asked does anybody know.

Mr. Sherman stated I don't believe there was an admission charge but I believe they did pay rent for that event.

Alderman Gatsas stated if they are not charging an admission charge and I look at some of these where there is no admission being charged and obviously the Center of NH, if you take a look at Page 2, two lines down where it says First Robotics Regionals there is no revenue for the parking, which means they must either not have allowed them to park there or they were not collecting for the parking. If they were allowing people to enter the event then there is \$5,200 that we were paying and there are a couple of others that are similar to that on the front page. The other one being the Pop Warner Regionals. There doesn't seem to be a revenue source there. I don't know if there was a charge for admission. I look at these and they are small amounts and I am not looking to nitpick them but there certainly has to be...it is \$10,000 when you look at those three. So when you look at those three if they are not charging an admission I don't know if we should be paying a per head count.

Mr. Sherman replied the agreement itself was per event.

Mayor Baines stated it is not related to the admission issue.

Mr. Sherman stated right and I think it could be that the events that you picked out were mainly student events. They are school events and it is possible that they opted not to operate the garage on those nights but that is just speculation.

Alderman Porter stated it appears to be that we are zeroing in on the Center of NH when, in fact, if we got all of the revenue from the Center of NH we would still show a loss. I think the 80 cents per person is probably what makes it a loss, however, if this was negotiated in good faith years ago certainly SMG is not going to give up something without getting something of equal value in return. It is called simple business.

Alderman Porter made a motion to move the question. Alderman Garrity duly seconded the motion. Mayor Baines called for a vote. The motion carried with Alderman Lopez being duly recorded in opposition.

Alderman Guinta moved that the report of the Committee on Traffic be accepted. Alderman Forest duly seconded the motion. Mayor Baines called for a vote. Alderman Shea requested a roll call vote. Aldermen Shea, Gatsas, Osborne and Lopez voted nay. Aldermen DeVries, Garrity, Smith, Thibault, Forest, Roy, Guinta, Sysyn, Porter, and O'Neil voted yea. The motion carried.

Mayor Baines presented nominations as follows:

**Planning Board**

Karen Roberge to succeed Robert Stephen, term to expire May 1, 2006

Mayor Baines advised this nomination will lay over until the next meeting.

**Central Business District Advisory Board**

Joseph G. Fremeau to fill a vacant at-large seat, term to expire May 2007

Peter Ramsey to fill a vacant at-large seat, term to expire May 2007

George Bruno to fill a vacant owner seat, term to expire May 2009

Ronald Dupont to fill a vacant owner seat, term to expire May 2009

**Board of Registrars**

Maureen Lillis to succeed Rita Pepino, term to expire May 1, 2007

Jeanne Thornton to succeed Brian McHugh, term to expire May 1, 2007

On motion of Alderman Garrity, duly seconded by Alderman Thibault it was voted to suspend the rules and confirm nominations to the Central Business District Advisory Board and the Board of Registrars as presented.

Mayor Baines stated for information I am appointing Chris Williams from the Greater Manchester Chamber of Commerce to the CEDS Committee to replace Mike Colby.

Deputy Clerk Johnson stated we do have some reports. One was from the Committee on Administration, which I understood you wanted to take up next and then we also have a couple of reports from the CIP Committee before we got to the Finance Committee that need to be taken up.

A report of the Committee on Administration was presented advising that it has referred the matter of the FY2005 revaluation and information received from the Board of Assessors relating to this matter prior to this date to the full Board of Mayor and Aldermen for discussion.

Alderman Roy moved the item for discussion. Alderman Forest duly seconded the motion.

Alderman Guinta stated I can certainly appreciate the work of the Committee and given the fact that the recommendation of the Committee dramatically or completely affects Ward 3 I

am asking as a matter of professional courtesy that this matter be tabled for a couple of weeks.

Deputy Clerk Johnson stated you have the wrong report. The Committee on Administration had taken up discussion relating to the matter of revaluation for fiscal year 2005. They have referred that to the Board of Mayor and Aldermen for discussion.

Mayor Baines asked wouldn't that be the Finance Committee for the budget.

Deputy Clerk Johnson replied they referred it to the full Board.

Mayor Baines stated that wasn't the motion was it.

Deputy Clerk Johnson responded yes that was the final motion.

Mayor Baines asked to just refer the whole matter. I guess something must have changed after I left. I thought you guys had settled that.

Deputy Clerk Johnson answered it did, your Honor.

Alderman Lopez asked can we have the Assessors come up. I would just like to make a comment primarily because in Committee the Assessors reported and it has been determined that it is their fiduciary responsibility to have a revaluation although some of us disagree with that. They are compelled by law. I would just like them to explain to the other members of the Board why you feel we have to go this route.

Mr. Steve Tellier, Chairman, Board of Assessors stated since the Sirrell decision, the Supreme Court Sirrell decision chastised the State of NH for not enforcing its own five year constitutional mandate for each community to revalue itself anew. That was one of the main tenants of the Supreme Court decision and then it also outlined five issues that the State had to standardize and tighten up with regard to revaluation on property taxes. At that time, additional legislation was adopted in the form of assigning the Department of Revenue Commissioner the task of giving each community a year for their assessment review process. Manchester's assessment review year is 2004. We cannot meet that 2004 deadline. Now the DRA has provided an opportunity for the City to do it in FY05 but we have a clear letter from the Department of Revenue Commissioner that says should the City not accept the plan and they define a plan as a contract that is signed with monies appropriated for those tasks. If we don't go ahead and go to RFP and contract, the possibility and quite likely outcome will be that we will be petitioned to the Board of Tax and Land Appeals for instead of paying \$24/parcel approximately \$750,000 for a City the size of Manchester for a valuation update we could likely be forced to go to what is called a scratch job or a full revaluation where additional staff and additional time is required and with the incursion and oversight of the

Board of Tax and Land Appeals that adds a premium to that cost as well. You are looking at \$80/parcel or in excess of \$2.4 million. It is the Board of Assessor's professional opinion that by state law we are compelled to do this. This has been the line we have conveyed to the Board for quite some time now and that is our professional opinion.

Alderman DeVries stated if we were to...unfortunately I could not hear the entire discussion yesterday because I was not here and the audio wasn't coming in at home. I did sit here for the first meeting that we had with the individual down from the state. Help me with his name.

Mr. Tellier stated Guy Pettell.

Alderman DeVries stated if I recollect his comments correctly, he was telling us that we have two strata in particular that are going to cause us problems as they look at our books if you will this next year or this year and they were our vacant lands and our multi-family housing units. Tell me what needs to be done to identify or to bring those units or those two strata into current valuations so they are not falling. I think they were at 50% levels of current values.

Mr. Stephan Hamilton responded there are two issues. One is the categories of property that you correctly identified. The other is the need for all of the values to be at market value or between 90% and 100% of market value, which we can't meet for 2004.

Alderman DeVries asked in particular those two were identified by Guy Pettell so that seemed to be a very strong message to me that we needed to do some work on those two categories or strata as he called them to bring those up-to-date.

Mr. Tellier stated if I may to expand on what Assessor Hamilton stated, yes, he correctly identified the two most onerous or the two categories that were the most out of line but one of the primary issues on the assessment review is to have all market values between 90% and 100% of value. We are approximately at 65% as of 2003 so it keeps declining and there is absolutely no way that any category would meet that primary tenant. Again, you are accurate. Those are two that would show quite a bit of effort that would require them to get up but the whole tax base needs to be brought up to market value to meet the statutes.

Mayor Baines asked can I make a comment. This was a very long discussion last evening. Basically we have to do it. They have the authority to do it under law and they need to do it. The only discussion...other than continuing the same discussion we had at length that others participated in, it is a budgetary item that we have to deal with during the budget. Beyond that, they have to do it. We have been notified that if they don't do it the Commissioner will petition the Board of Tax and Land Appeal on this. I just want to remind the Board that we do have other agenda items. This will be a budgetary issue. We do have to do it. They are

the ones that have the legal authority. We don't have the authority to stop it other than if we didn't appropriate.

Alderman DeVries stated certainly I agree with you that there is a budgetary component but since we are looking at a two year CIP on that I don't think that is really up for discussion. We will fund the budget to allow the revaluation. The question is do we do it this year or do we do it the following budget year – 2005/2006. Certainly there are individuals on this Board including a prior Assessor who seem to be indicating that if we identify a couple of the categories and do what they are telling us from the State we might not be up in court at BTLA with them demanding a full revaluation because they are looking for a plan on how we are going to get there and if we tell them that we are putting it off for a year and we fully funded it plus we are internally taking a look at these two categories that are extremely far out of whack and bringing them up-to-date with current analysis we probably won't end up in court. That was the opinion that I was hearing from the individual. That they won't be demanding a full valuation and we can come in with a partial revaluation the following year.

Mayor Baines responded no. Again that was all addressed last night. Could you please explain it again, Steve?

Mr. Tellier stated the land is one of the basic premises under a camera model so to just change the vacant land is still not going to meet the requirements of the state. What we are asking here simply is for this Board to take a vote to release the funding and allow the Board to do its job, to go to RFP and to contract the evaluation. I think the letter that we received yesterday from the Commissioner of the Department of Revenue Administration was very clear. Now the decision stills lies with this Board and I want to be on the record to state that we do not have the resources to do this kind of job. It is going to require the release of funding to allow us to go to RFP. If we do not go to RFP and have a contracted plan in place the City is at its peril to be forced to do a much more onerous job and in excess of twice the amount. Now I can't and won't speak for the DRA or the Board of Tax and Land Appeals, however, they have been clear in what they are looking at Manchester for.

Alderman DeVries stated I have one last comment because he is addressing a letter that was given yesterday and that is nothing that I have seen. Is that another letter that was sent with the courier? We have been here since 4 PM. The courier doesn't come until 5 PM at my house. I would appreciate having a copy of that letter.

Alderman Porter stated I would just like to make a couple of comments. I am adamantly against the FY05 revaluation. I think it should be done in FY06. What I keep hearing are threats and intimidation. We got the DRA involved. I have never seen the DRA get as heavily involved until the Board of Assessors requested that they come in and so-called answer questions and now we find ourselves intimidated. Mayor, I respectfully disagree with you. We have to do it. I am going to lay out a scenario again. The DRA is doing an

assessment review of the City of Manchester for tax year 2004. Tax year 2004 begins April 1, 2004 and runs through March 31, 2005. There will be a ratio study done and completed. By the time the Department of Revenue Administration gets the information back to Manchester about the ratio and that is probably the only criteria that the City would not meet under the recommended guidelines, not statutory guidelines but recommended guidelines, once they do that they would report to Manchester if we didn't meet. If the ratio goes down to 59% then obviously we are not within the 110% and 90%. We understand that. At that time, the Board of Assessors would have to respond with a plan. If there were no plan in place to do it for FY05 and the threat by the Commissioner were to be upheld and they do petition the BTLA if the City of Manchester sometime between now and the next six to eight months present a plan to do a full revaluation for FY06 the Board of Tax and Land Appeals by the time they make any decision it would be probably be July or August of 2005. There is absolutely no way the Board of Tax and Land Appeals would direct the City of Manchester to do a revaluation in two months. It is becoming a little clearer to me why the push for the revaluation and one of the reasons and I did look last night and it was educational to me, Randy's presentation on the bonds and indebtedness. I believe it was the Moody Company that had a concern about the assessed value per residence. So by moving up the assessed value and I can understand it from the Finance Department's point of view, it will make those graphs look better. It will put the City in a better light in terms of the overall tax base vis a vie the number of inhabitants. It will move up the assessed value per inhabitant substantially and that is fine but in no time am I hearing we are doing it for the benefit of the taxpayers – not from the Assessors, not from the DRA and not from the Commissioner and I believe that as Aldermen we should be looking at what is truly in the best interest of the taxpayers. I maintain if the City didn't have a plan in place to do FY05 by the time the BTLA would order the City to do it, it would not be before tax year 2006. There is no way it could be done between now and then. The other issue...in private business when anybody comes and presents a plan one of the questions would be what is the experience of the individuals implementing this plan. Mr. Tellier and Mr. Nichols do not have experience with in-house revaluation and in fairness to them I after nearly 22 years can also make that same claim. Doing a revaluation, whether it is statistical, in-house, out of house, contracted or consultant it is a very high technical and a very laborious project. I maintain that if we do a revaluation in 2006 I recommend that we do a full revaluation. It will have been five years since the last revaluation. Steve Tellier brings up the Sirrell decision addressing the constitution. The constitution says five years. Well guess what, that is 2006, not 2005. I really do not appreciate getting the Tax Commissioner involved to intimidate the City into doing something that it definitely doesn't have to do. There is no penalty if the BTLA directs the City to do a revaluation. This occurred in the revaluation that took place in 1991. There was no penalty. The BTLA has always been understanding with a City this size. They know you must can't go out and do it in a couple of months and there is no way they would order a revaluation prior to tax year 2006. I think we should proceed cautiously. I don't know what the experience level of Mr. Hamilton is. Perhaps he has extensive experience in doing in-house revaluations. I don't know. That is an area that we have never

even explored. As I said, it is a lot different than doing the day-to-day assessing at the Board of Assessors than doing an in-house revaluation. You know you say it fast and it is pretty easy but it is a very complicated, difficult effort and I will not support doing it any earlier than 2006. Thank you.

Mayor Baines stated again you have three sitting Assessors who disagree with that opinion.

Mr. Hamilton responded just briefly and I don't want to take up too much of your time but we are not sitting here proposing that the three of us conduct valuation updates for 2005. We are hoping that you will allow us to go to RFP so that we can contract with an experienced company. That is the plan that we have. We need to get through this portion of our statutory requirements. RSA 75:8(A) requires that we do a valuation beginning with the first year of assessment review. That is tax year 2004. The DRA has started that process. That is the reason they are involved because they know that we can't meet those requirements. The Assessors gain nothing by having the reassessment done. We are simply trying to follow the statutes and the constitution the way that we understand them.

Mayor Baines replied I agree and again I will repeat. I had the City Solicitor take a look at this. The wording is "shall". It doesn't say we may or you may do it, it says "shall" do it. The City Solicitor advised me that if we don't do it it is tantamount to rolling the dice in terms of how they are going to react. Also, the Board needs to understand that any one citizen can petition the Board of Tax and Land Appeals. The DRA doesn't have to do it. They have already told us they will do it but one citizen...Manchester has put itself in...I would rather not go through a revaluation next year either but at a certain point in time we have to do what the law requires to fulfill our obligations. The DRA is involved for very legitimate reasons and not for any other reasons. The whole situation with the funding of education has put us in a situation where we have to be in compliance. That has changed since 1991. There is a different compelling reason now to make sure the valuations around the state are on equal footing and that has been made very clear. Again, I think a motion should really be in order to refer this, the funding because it is a funding issue, to the Finance Committee and we can continue the discussion there.

Alderman Forest moved to refer this item to the Finance Committee. Alderman Thibault duly seconded the motion.

Alderman Gatsas asked, Steve, can you identify...you had said a number \$750,000. To do the analysis that you are looking for it is how much.

Mr. Tellier answered approximately \$700,000 to \$750,000. It breaks down to approximately \$24/parcel.

Alderman Gatsas asked if we were to go to the scratch...



Mr. Tellier interjected if we enter voluntarily to do a scratch it would be approximately \$70/parcel. That is the going rate right now.

Alderman Gatsas asked so it would be somewhere around \$2 million.

Mr. Tellier answered yes \$2.2 to \$2.3 million.

Alderman Gatsas asked wouldn't it make sense to enter into a...for budgetary purposes and a true complexion of what we are doing wouldn't it make sense to appropriate \$1.1 million in the FY05 budget, have you go out for an RFP for a full scratch appraisal sometime in the middle of November of this year for an RFP and fund the balance of the \$1.1 in FY06 so that it is completed in FY06.

Mr. Tellier answered that is an alternative plan certainly that the Board can consider. However, I want to reiterate that we didn't ask the Commissioner...

Alderman Gatsas interjected your answer to the question is that is something we can do.

Mr. Tellier responded that is something the Board can consider.

Alderman Gatsas stated my question would be to Alderman Porter because he is the one who is adamant about doing it and he certainly is the expert, at least of the 14 or 15 of us sitting here. Alderman do you see a problem in looking at what I just suggested, allocating the \$1.1 million in the FY05 budget, having them start an RFP sometime in October and allocating the other balance of \$1.1 million in the next budget to complete a scratch appraisal?

Alderman Porter responded I think a scratch appraisal would be the only way to go even though it is a little more costly. As I said last night the lowest cost is not necessarily the cheapest. It could be very expensive for us in the long run if it is not done right and I think we need more time than is being allowed to do it for FY05.

Alderman Gatsas asked do you have a problem with what I just proposed.

Alderman Porter answered no I don't.

Mayor Baines stated that means you would have to take about \$2 million out of your CIP budget that you have been working on. Again, we have a motion on the floor to refer this to Finance. I am going to call for a vote. Alderman Gatsas requested a roll call vote.

Aldermen Gatsas, Osborne, Porter, Shea, DeVries, Garrity, and Smith voted nay. Aldermen Sysyn, O'Neil, Lopez, Thibault, Forest, and Roy voted yea. Alderman Guinta abstained. The motion failed.

Alderman Lopez stated we need some clarification. I understand the recommendation that Alderman Gatsas made and I am a little confused about the Assessor saying yes we can do that. If you are saying we can do that and you come to the Committee and say that you don't want to do it and that you are not going to do it...I need some clarification.

Mr. Tellier replied let me see if we can make it as clear as possible. It is our professional opinion that this needs to be done in FY05 according to the statutes and administrative rules that have been adopted by the state. It is further our professional estimate that should the City not enter into a contract in FY05 then we could very well be liable to be petitioned to the Board of Tax and Land Appeals and they have ordered full revaluations at \$70/parcel and you can add \$10/parcel to that for a premium that is usually added when there is BTLA oversight. We are not trying to intimidate or allege threats. This is what we read in the law. This is what you asked us to do. This is what you require us to do. When I answered that is what you could do, this Board could choose to follow our recommendation, follow your own recommendation or choose to do nothing and allow another entity to make that decision for us. We unequivocally recommend that this is done in FY05.

Alderman Lopez stated let me try to clarify something here that I am confused on. Let's just say that we go into the Finance Committee or whatever the case may be and we decide to give you \$1.5 million to do it. Are you telling me that you could still...that you would still proceed with your theory of going through a revaluation regardless of how much money you got? You only requested \$250,000 to do it but if we gave you \$1.5 million are you still going to proceed in the direction you want to go in? If you are telling me the law says that we don't have any authority are you telling me that you are still going to proceed under what you told us?

Mayor Baines replied I don't quite understand that question.

Alderman Lopez responded what I am saying is they requested \$250,000 to proceed in the direction that they want to go in to do the revaluation next year.

Mayor Baines stated I still feel that the \$250,000 approach is the best approach at this time for the City.

Mr. Tellier responded the \$250,000 is in addition to the \$500,000 that was allocated last year.

Alderman Lopez stated if we as the Board of Mayor and Aldermen fund a full scratch as has been indicated are you going to comply with this Board or are you going to just do what you want to do.

Mr. Tellier responded we are going to have to go back and discuss that. Quite frankly the mechanism...we can state that we don't have the resources in-house to comply with what the state is requiring us to do so that is why we have asked for the funding. Your Board has the ability to release the funding so we are in a Catch-22. We don't have the resources in-house to comply with state law and should this Board not provide the money to comply with the state law we would be in a Catch-22 position.

Alderman Lopez asked but if we give you \$1.5 million that is complying with state law. What are you going to do?

Mayor Baines stated the question seems to be if the Board wants you to do a full scratch revaluation will you do it.

Mr. Tellier asked for what year. What are we talking about? We probably do not have the time to do it in FY05. We could do a valuation update, which is...just to answer the question real briefly the data collection phase took over eight months in a City of this size.

Alderman Roy stated with all due respect to my colleague from Ward 6 we currently have an equalization rate of 65% projected out at 54% next year. This is about fairness throughout the City. We should not be looking at this as tax impact or revenue. This is about putting 100% valuation on each property no matter what the political boundaries of the City are and no matter what the neighborhood demographics are. 100% valuation and compliance and then we come back into this room as we are doing now and adjust our budget to fit a number that is given as a total from the Assessors. I believe that right now a 65% equalization rate...the land values and what properties are selling for we should be doing this in FY05 for the taxpayer – the residential taxpayer needs this. We should be doing it for them without any other discussion.

Alderman Smith stated maybe I am missing something here. The DRA came out with Sirrell thing...is that correct every five years in 2004? We had our revaluation in 2001 and maybe my math doesn't add up that way but I think we should be doing it next year and I don't see what the problem is and why we can't do it. We have three Assessors here. Why can't we get the money funded for the Assessors in next year's budget? We are in a tough bind now. I hate anybody telling me, especially the state telling me you are going to do it and putting a threat on it. I have to agree with Alderman Porter that we should do it next year.

Mayor Baines stated again the City has been forced to do revaluations in the past. That is in the history of the City waiting for the state to tell us what to do and they will. It was a petition of citizens that caused it I think the last time. Isn't that correct Randy?

Mr. Sherman answered the 1991 revaluation happened that way.

Mayor Baines stated that is the one I meant.

Alderman Porter stated as I have said before I am not against the revaluation. I know we have to do it. We can't wait 20 years like we did when I went through my first one. It was horrible. Then it was 10 years. I understand the five year cycle starting with FY04 and all of this business but what I am saying is the timeframe would not allow the DRA to petition the BTLA until at least May or June or July of FY05 at which time if the BTLA ordered it there is no way they are going to order it done for anything less than FY06. They understand the complexity of the City of Manchester. There is absolutely no reason to feel we have to do it before FY06. We keep getting the intimidation of the law, the law, the law. I think the Assessors have repeated that enough. We are aware of your opinion. We don't need to have it forced and rammed down our throat every time we turn around. As Alderman Smith stated the constitution says five years, which is 2006. I think it would be proper to do a total revaluation and to go out now with RFP's. It takes a long time to do it and it would be done in a much better way. I will say this. If we do it in FY05 given the scenario we have it will be a disaster. We are looking at tax year 2005, which is in April. We are now almost just 10 months away from that and we are going to rely on an in-house partial revaluation with a consultant outside.

Mr. Hamilton stated we are talking about going out to bid for this revaluation update. We are talking about sending out RFP's to companies that have experience in conducting these type of updates. We are not talking about the Assessors setting these values. We are talking about contracting for services. That is why we are here. If we could do it in-house then we would but we don't have the capacity to do it.

Alderman Porter responded and I doubt that it will ever be done fully in-house because you would need a staff of 20. You can't do it with five, six or even seven people just out in the field. It would be an impossibility. I just want to make one final comment. 2006 would be the time to do it. Even if the DRA does bring the City to the BTLA if the City has a plan to do it in 2006 the BTLA more than likely will say thank you, that is acceptable, present your plan and be on your way. The other thing is if the DRA wants to mandate this, let them pay for it as an unfunded mandate not on the backs of the taxpayers of the City of Manchester.

Mayor Baines replied again that is great political rhetoric but we are in a time when we are dealing with law and I don't fault the Assessors for saying it because Aldermen say the same things over and over again too. It is the law. We are required to do it. I would prefer that we not do it but if you are going to take your action let's take it now because they will probably go right away to the Board of Tax and Land Appeal. They basically indicated...the Board of Tax and Land Appeal we were told yesterday is taking action on its own based on some reporting that is going on in other communities. They are taking action immediately. We are in a different situation than we were back in 1991 because of educational funding. The three Assessors who are sitting in those positions now have a different opinion

collectively, unanimously and we seem to be rejecting it because someone who used to be there has a different opinion. I respect your opinion but we have three Assessors who are in those positions who have told us and they are not going to go up to the state and defend a position of the Board of Aldermen not to do it. They have already said it needs to be done and we have to follow the law and we are not following the law if we don't do what the Assessors have asked us to do and we have had that reinforced by the DRA but if you are going to take your action, take it and roll the dice because that is what the City Solicitor said you would be doing. I won't support it.

Alderman Gatsas stated I am trying to make this easy. You already have \$500,000. If this Board said that they were going to allocate \$2.2 million for a full appraisal for full revaluation obviously it couldn't be done in 2005 it would have to be done in 2006 so we are going to be in compliance because we have gone out for an RFP and we only have to fund the first portion of it for \$600,000 because if memory serves me correct you hold in abeyance almost 30% or 40% until it is completed and you really don't need the additional funding until sometime in June of next year if we fund half of it now. That would give us a total scratch appraisal that would be in 2006. The RFP would be out. We would be in compliance. Nobody is knocking at the door and telling you that you are out of compliance because the RFP is calling for a full scratch revaluation. Is that correct or incorrect?

Mr. Tellier responded I would say that it is incorrect only in as much as we cannot tell you what the Board of Tax and Land Appeals or the DRA...they have already gone on the record to say that our assessment review date is 2004. They are allowing us to do it in 2005. Concord, for example, and you asked previously when was Concord's appraisal date it was 2003. They are doing one this year. They have been allowed a year in abeyance. They are performing theirs this year.

Alderman Gatsas replied correct and from what I heard from Mr. Pettell last night if we went to a full blown scratch revaluation and there was an RFP in hand within the next three or four months the DRA would not have a problem with that. That is exactly what he said.

Mr. Hamilton stated the issue isn't whether or not we have a full revaluation or a valuation update with the DRA. The issue is that our ratio isn't between .9 and 1.0. We are not at market value. Whether we get there by a valuation update or whether we get there by a scratch revaluation I don't think they are particularly concerned as long as we can show that there is equity to the taxpayers of the City. How we accomplish that, they are not particularly interested in. If we could do it in-house, they would accept that. If we have to go out of house to contract it, they would accept that. If we have to go to a full scratch revaluation, they would accept that as well if it were to be completed for tax year 2005. That is what they have told us.

Alderman Gatsas stated a scratch appraisal for 2005 is impossible.

Mr. Hamilton stated when we get before the Board of Tax and Land Appeals we are going to have to explain why we didn't so something intermediate in order to correct the problems that exist now.

Alderman Gatsas moved to allocate an additional \$600,000 this budget cycle to bring them to \$1.1 million so they can do a full scratch appraisal for 2006. Alderman Porter duly seconded the motion.

Mayor Baines asked where is the money going to come from.

Alderman O'Neil stated this is an item that can be bonded correct.

Mr. Sherman responded yes.

Alderman O'Neil asked where we are now very close to wrapping up the CIP budget and we are setting up a framework for a two year CIP budget that means that we have to commit somewhere about \$1.6 or \$1.7 million in that budget.

Mr. Sherman answered that is correct.

Alderman O'Neil asked does anybody want to tell me what projects we are cutting out.

Mr. Sherman stated if I may add to that, this is a five year bond, which means if you are cutting your bonded projects you would have to cut \$1.7 million of five year bonds or you would have to cut three times that amount out of 20 year bonds.

Alderman DeVries stated to continue that conversation since we do realize that we are dealing with a two-year CIP and general obligation bonding, we have \$250,000 appropriated within that. The discussion here is what year we wish to authorize you to go forward. I would amend the motion on the floor to be \$250,000 as already in our two-year CIP general obligation bonds and authorize it for tax year 2006, not 2005. Alderman Lopez duly seconded the amendment.

Alderman Gatsas stated you can't amend my motion.

Mayor Baines stated of course she can. Go ahead and explain it.

Alderman DeVries stated I am reducing the dollar amount from \$600,000 to the \$250,000, which is already included in our two year CIP general obligation bonding but we are not authorizing them to go forward in the RFP process for tax year 2005 but for the second year of that CIP budget, 2006.

Alderman Gatsas stated I don't accept the amendment.

Mayor Baines responded an Alderman can make an amendment to an existing motion and you vote on the amendment.

Alderman Gatsas stated then let's vote on the amendment.

Mayor Baines responded I haven't accepted the amendment yet. I want some clarification from the Finance Officer as to how that would work.

Mr. Sherman stated I believe what the Alderman is saying is we would leave the recommended CIP budget as is at \$250,000 and give the Assessors direction that they are doing it as of 2006 not 2005. I believe that is really the only change.

Mayor Baines stated the motion to amend has been made by Alderman DeVries and seconded by Alderman Lopez.

Alderman O'Neil stated so what Alderman DeVries is suggesting is that already within the framework of the CIP budget we have we have \$500,000 from a previous year plus the \$250,000 and that is to do this updated version for \$750,000 that has been quoted by the Assessors this evening and that actually would not take place until our fiscal year 2006. Is that correct?

Alderman DeVries responded yes.

Alderman O'Neil stated I have a question for the Assessors. When we talk dates of 2005 and 2006 per DRA or Board of Tax and Land Appeals are we talking our fiscal year or calendar year?

Mr. Tellier responded calendar year. You are talking a calendar year April 1 of any effective date. This is tax year 04 but it is fiscal year 05. We are a year in arrears between the different years. That is important to note. Are we talking about an effective date for assessments to be set...what I believe Alderman DeVries is talking about is April 1, 2006. Is that correct?

Alderman DeVries replied I didn't hear your question.

Mr. Tellier stated there is a difference between the City's fiscal year and the tax year. The tax year coincides with the calendar year to a degree. April 1 until March 31. We are stating that we have to undergo an update. It is our professional opinion that we should begin this

September so that we have effective values April 1, 2005. It is my understanding that you are promoting the idea of going April 1, 2006. Is that accurate?

Alderman DeVries responded I am asking you to put off by one year your revaluation.

Mayor Baines stated what I would suggest if you are going to do that is you take a separate motion on it and we will inform the DRA what the Board has decided to do and let them go to the Board of Tax and Land Appeal. Call their bluff. That is really what you are doing. If you want to do that, do it at your own peril. I think that...I am not sure that should be part of an amendment. The amendment would be to reduce the appropriation down to \$250,000 and basically direct that it would not occur...it would be the Board's position that you don't want to do it until 2006. Is that your motion and amendment?

Alderman DeVries responded yes.

Alderman Lopez stated I just want to mention so that we have a clear understanding of the RFP even though you do it in 2006 it doesn't prevent you from doing an RFP in two parts. If you have to get ahead of the game you can do an RFP to bring on data collectors before you bring the other people on. I just want to mention that. We had some discussion about that and I think that is very valuable. When you do the RFP, you can do the RFP this year for 2006 but you can also require the two data people or so to come in and do whatever you have to do to get ahead of the game going into 2006.

Alderman Gatsas stated I certainly can't support the amendment because what we are doing is doing exactly what you said, your Honor. We are slapping the BTLA and the DRA right in the face and saying come on in here and the worst outcome can be we finish this budget cycle and the DRA comes down here and says you need to play and you play now and you have to play at a full scratch and if it is at a full scratch revaluation we then don't have the budgeted money and we are going to be spending money we don't have and we are going to have to get it from somewhere. I sit here and say that if that is what we are going to do we are trying to prolong what we are doing into FY06. If we put the money in the bank and say here is \$600,000, go out and do an RFP for a scratch appraisal or a revaluation we are going to be able to do that and fund the balance of it in FY06. I don't think that for one second we should be saying here is \$250,000 don't do anything until 2006 and come and get us if you can find us.

Mayor Baines stated I appreciate those comments because you are challenging them and fine, this is a serious matter for the state because of the issues that were explained. I think when we are elected as members of the Board one of the things we do is to uphold the law and follow the law and that is all we are asking people to do.



Alderman O'Neil asked can I get a clarification of Alderman Gatsas' suggestion. Alderman Gatsas you are suggesting that we put \$600,000 in FY05 in the CIP.

Alderman Gatsas answered correct.

Alderman O'Neil stated so that will give us \$1.1 million. Then for talking terms let's say the total scratch revaluation is \$2.2 million. That means in FY06 we have to come up with another \$1.1 million. If we are talking \$500,000 in FY05 and \$1.1 million in FY06 we are in that CIP budget discussion right now. Where is the \$1.6...we are going to have to cut then \$1.6 million of bonding in the CIP discussion that we are having now? We really can't talk about we should do something in FY05 and FY06. We are talking about the framework of a two-year CIP budget. That is \$1.6 million that we would have to cut.

Alderman Gatsas responded I agree with you and I go back to what you said tonight about wants and needs. Wants is going to be that the DRA comes in and says you are going to do it and we are going to have to do it so I would rather have to plan it based on the numbers that we have to plan so that we can be prepared with that and go through the CIP budget and say we have to find some things to eliminate. I agree with you but that obviously is a want. We need to do this without a question.

Mayor Baines stated I want to remind everybody that the sitting Board of Assessors has voted unanimously and recommended unanimously but they recommend that you don't need to do that. They have given you an option that they feel is in the best interest of the citizens and the taxpayers of the City of Manchester. That is what they are in their positions to do. They unanimously agree that that is not the approach as recommended by Alderman Gatsas.

Alderman Shea stated what I am going to do is amend her amendment and say we put \$250,000 forward and do whatever the Assessors want to do in FY05.

Mayor Baines responded let's vote on the amendment and vote it down if you don't want it. Then we can come back to Alderman Gatsas' motion that we have to vote on. A roll call vote was requested on the amendment to change the amount of funding from \$600,000 to \$250,000 in the CIP budget and instruct the Assessors to do the valuation update in tax year 2006. Aldermen Roy, Gatsas, Sysyn, Osborne, O'Neil, Shea, Smith, Thibault, and Forest voted nay. Aldermen Porter, Lopez, DeVries, and Garrity voted yea. Alderman Guinta abstained. The motion failed.

Mayor Baines stated the main motion is back on the floor which is that an additional \$600,000 be allocated...

Alderman Gatsas interjected you have another amendment.

Alderman Forest asked as Chairman of the Committee on Administration can I make a comment on this before we vote. For the last three Administration meetings this has come up. The Aldermen that have been on the Committee and the Aldermen that have testified always said that the Board of Assessors have the authority to do this. We are now micromanaging the Assessors Office. We have three Assessors and there is a Chairman. I think the only question we have tonight is do we fund the \$250,000 or not and let them make the decision because in their opinion they are saying the DRA is telling us to do it. We have an Alderman who has been out of the loop for awhile. Granted he knows a lot about assessing but I think we should let the Assessors do what they do best.

Mayor Baines replied I concur.

Alderman Shea stated that is what I would want to do. We have discussed this enough and it has gone back and forth like a ping pong ball so what I would like to do is make an amendment that we give them \$250,000 and have them to whatever kind of revaluation they want to do in 2005.

Alderman O'Neil asked wouldn't the best thing be to vote up or down on Alderman Gatsas' amendment and then get a clean motion. Also isn't the \$250,000 already in the CIP budget?

Mayor Baines answered yes. If you have Alderman Shea's opinion then you need to vote no on Alderman Gatsas' motion.

Alderman Osborne stated I just want to ask Mr. Tellier a question. Like Alderman Shea said we have been bouncing this around for quite awhile. What is the best thing for the taxpayers? Is it best to take the \$250,000 or to have a total revaluation here? Which way is the best for the taxpayers let alone the state, us or anybody else?

Mr. Teller responded we feel the plan at \$750,000 or approximately \$24/parcel...we have a very good confidence in the quality of the data that we have. It will get further refined as part of the review process. We feel that that is the most economical plan and fulfills the state's requirements.

Alderman Osborne asked and do a total revaluation in 2009. Is that what you are saying?

Mr. Tellier answered depending on the will of the Board we may look at additional resources. That will be a discussion for another day.

Mayor Baines called for a vote on Alderman Gatsas' motion.

Deputy Clerk Johnson stated the motion as I understand it is to fund \$600,000 in the CIP budget for a scratch revaluation with the balance to be funded in FY06.

Alderman Gatsas stated that is not the motion because there is already \$250,000 in the budget. I would say that we increase it by an additional \$450,000.

Deputy Clerk Johnson stated I thought it was \$600,000 plus the \$250,000. No, the full amount was \$600,000 and that is what I am stating.

Mayor Baines stated if you want to take an additional \$1.2 million out of your CIP and go for a full blown revaluation, which they don't recommend and I don't recommend then vote for that motion. Alderman Garrity requested a roll call vote. Aldermen Garrity, Gatsas, and Porter voted yea. Aldermen Smith, Thibault, Forest, Roy, Sysyn, Osborne, O'Neil, Lopez, Shea and DeVries voted nay. Alderman Guinta abstained. The motion failed.

Mayor Baines called for a recess.

Mayor Baines called the meeting back to order.

Alderman Garrity stated Mr. Tellier I believe sometime last year you were in the seat that you are in now and you stated to this Board that the next revaluation, that the South end of Manchester would take the brunt of the revaluation. Can you better explain that for me?

Mr. Tellier responded I think what I said was that in the last revaluation in 2001 the North end had seen the vast majority of that accelerated growth at that early timeframe and now the rest of the City has caught up. I said the South end has caught up, for example, with the rest of the City. Also, what has accelerated is multi-families, vacant land and several other types of strata of property. So it is not just the South end and it is not just multi-families. There is a lot to it.

Alderman Garrity stated I remember the conversation last year because my ears perked up because you said the South end of Manchester was going to take the brunt of the revaluation.

Mr. Tellier replied I never said the South end would take the brunt of the revaluation.

Alderman Garrity stated I believe it is in the minutes and I think the colleague to my left has the same opinion of that.

Mayor Baines stated let's not debate that.

Alderman Garrity stated in order to get to Alderman Gatsas' proposal and I don't know if this needs to be done in CIP or if it can be done at the full Board level but I would suggest that the...we are talking about needs and wants and I would probably suggest that the \$1 million funding for the Hands Across the Merrimack bridge is a want and not a need and I

would suggest that that is possibly where we could get \$1 million for the funding for Alderman Gatsas' proposal.

Mayor Baines stated we already voted down that proposal.

Alderman Garrity stated I don't think that can be done at the full Board level. Does that have to be done at CIP?

Mayor Baines responded the Board just took an action not to support his proposal.

Alderman Garrity stated I believe you are debating this issue and I believe it is the appropriate time to step down if you are going to debate the issue.

Mayor Baines responded only when there is a motion on the floor and there is no motion on the floor.

Alderman Garrity asked but if we do have that motion will you step down.

Mayor Baines answered I can always express my opinion.

Alderman Lopez stated I think that what we ought to do...we are still talking in CIP and we are still talking in Finance. It is 10 PM and we killed this thing. I would like to see 2006. I think we can get there. I think there are ways to get there if that is the will of the Board. I don't know if Hands Across the Merrimack is the way to go. I do know that the 10 of us here tonight could take money out of the one time account, which \$400,000 or \$500,000 to do that and not disturb the CIP process that a lot of work has gone into by the Committee. I think what we ought to do is sleep on it and send it to Committee again.

Alderman Garrity asked can I make a motion.

Mayor Baines answered if it is new business it should come under new business.

Alderman Garrity stated it has to do with Hands Across the Merrimack.

Mayor Baines responded that would be new business.

Alderman Garrity asked aren't we in Finance.

Mayor Baines answered no we are not. We are still in the regular Board meeting.

Alderman Thibault stated I know how we could save an awful lot of money. I think we should take all of our department heads and fire them all because we don't listen to them anyway.

Mayor Baines responded I have heard previous Mayors makes comments about that too. We are going to move forward with the agenda and get business done here tonight.

A report of the Committee on Community Improvement was presented recommending that the Board authorize acceptance and expenditure of funds in the amount of \$47,145 for FY2004 CIP 215004 Environmental Health Tracking, and for such purpose a resolution and budget authorization has been submitted.

On motion of Alderman DeVries, duly seconded by Alderman Osborne it was voted to accept the report of the Committee on Community Improvement and refer it to the Committee on Finance.

A report of the Committee on Community Improvement was presented recommending that the Board authorize acceptance and expenditure of funds in the amount of \$20,833.33 (State) for FY2004 CIP 412104 Homeland Security Grant Program (Part II), and for such purpose a resolution and budget authorization has been submitted.

On motion of Alderman Roy, duly seconded by Alderman Lopez it was voted to accept the report of the Committee on Community Improvement and refer it to the Committee on Finance.

A report of the Committee on Community Improvement was presented recommending that the Board authorize acceptance and expenditure of funds in the amount of \$14,917.00 (State) for FY2004 CIP 412204 Enforcing Underage Drinking Laws Project, and for such purpose a resolution and budget authorization has been submitted.

On motion of Alderman O'Neil, duly seconded by Alderman DeVries it was voted to accept the report of the Committee on Community Improvement and refer it to the Committee on Finance.

A report of the Committee on Administration/Information Systems was presented recommending that Ordinance:

“Amending Chapter 130: General Offenses of the Code of Ordinances of the City of Manchester by repealing Section 130.10 Tattooing in its entirety.”

be referred to the Committee on Bills on Second Reading for technical review and further that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester to include a new use group category for Tattoo Parlors, inserting changes to Table 5.10, adding supplementary regulations for tattoo parlors, and providing for location restrictions so as to prohibit such parlors within 600 feet from each other and not less than 500 feet from a Residential or Civic Zone.”

be referred to the Committee on Bills on Second Reading and to Public Hearing on Monday, June 7, 2004 at 6:00 PM in the Aldermanic Chambers of City Hall.

Alderman Guinta stated I am asking that this be tabled until the next meeting on June 1. I would just like to take a look at this because it affects at this point Ward 3 and I am asking that it be tabled until the June 1 meeting to review the recommendation and come back with any potential changes. It doesn't affect the time requirements set by the legal decision so long as we do act on it at the June 1 meeting.

On motion of Alderman Guinta, duly seconded by Alderman Lopez it was voted to table this item.

On motion of Alderman Thibault, duly seconded by Alderman Garrity it was voted to recess the regular meeting to allow the Committee on Finance to meet.

### **OTHER BUSINESS**

A report of the Committee on Finance was presented recommending that a Bond Resolution:

“Authorizing Bonds, Notes or Lease Purchases in the amount of Seven Hundred Twenty Thousand Dollars (\$720,000) for the 2004 CIP 713204 Public Works ROW Improvement Project.”

ought to pass and layover, and further that Resolutions:

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Seven Hundred Seventy Thousand Dollars (\$770,000) for FY2004 CIP 713204 Public Works ROW Improvement Project.”

“Amending the FY2000 and 2003 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Forty Seven Thousand Three Hundred Fifty Eight Dollars (\$47,358) for FY2003 CIP 610403 Downtown Municipal Infrastructure Project.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Twenty Five Thousand Ninety Eight Dollars and Ninety Eight Cents (\$25,098.98) for FY2004 CIP 510604 Neighborhood Playground Rehabilitation Project.”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Forty Seven Thousand One Hundred Forty Five dollars (\$47,145) for the FY2004 CIP 215004 Environmental Health Tracking Project.”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Thousand Eight Hundred Thirty Three Dollars and Thirty Three Cents (\$20,833.33) for the FY2004 CIP 412104 Homeland Security program (Part II).”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Fourteen Thousand Nine Hundred Seventeen Dollars (\$14,917) for the FY004 CIP 412204 Enforcing Underage Drinking Laws Project.”

“Authorizing the Finance Officer to effect a transfer of Thirty Four Thousand Six Hundred and Twenty Dollars (\$34,620.00) from Contingency to City Clerk.”

ought to pass and be enrolled.

On motion of Alderman O'Neil, duly seconded by Alderman Smith it was voted to accept the report.

Alderman O'Neil stated three of those items – the one for Health and the two Police ones came up quick and I want to thank City staff for doing that.

Mayor Baines stated I am now going to move to Item 12.

Communication from Alderman Gatsas requesting MDC appear before the Board to discuss liabilities relating to the Bridge and Elm Streets project in light of a recent *Union Leader* article.

Mr. Skip Ashooh stated Alderman Gatsas sent a letter asking that the MDC respond or address the potential for the City's liability as it relates to an article in the *Union Leader* regarding Christian Silvestri and some liens placed on his property at 815 Elm Street. The MDC actually is the seller of the property and we are really not the proper respondents to any issues on liens on the parking garage. The parking garage...once the sale of the land by the MDC to the developer is complete, the developer is going into an agreement with the City on the parking garage. Atty. Marts is here. He represents the developers. Obviously I will be able to answer any questions you have regarding the MDC but Atty. Marts is here representing the developer.

Atty. Tony Marts stated I am the attorney for Manchester Place LLC, which is the developer of the Bridge and Elm Street project. I don't represent Christian Silvestri personally or the 815 Elm Street project but just so everyone knows what we are talking about 815 Elm Street now houses Piccola Italia's large restaurant plus the Vitro Lounge upstairs. That building was vacant for over eight years before it was purchased by Mr. Silvestri who has invested \$1.5 million plus in that building of which over \$1 million was in fact cash equity. There was an article in the *Union Leader* on May 12 pointing out that there were some mechanic liens on the property. I submitted a letter to the City Solicitor's Office, which I believe the Aldermen have which attempts to explain the difference between public and private projects in terms of the lien process. In a private project like 815 Elm Street, all of the contractors and subcontractors have an automatic mechanics lien right, which is an attachment on the project as soon as they start doing any work and they need to continue that statutory lien if, in fact, they don't get paid within 120 days of completing their work by filing a collection act. In the 815 Elm Street case that has happened with, I believe, two or three different subcontractors where there is a dispute over the workmanship involved, whether certain

work was authorized and things of that nature, which are sometimes going to rise in any construction process. On the public project side, which is what we are talking about at Bridge and Elm Street, we are talking about the construction of a publicly owned garage incidentally which is what we are talking about at Bridge and Elm Street. We are talking about the construction of a publicly owned garage, incidentally, which is a taxable garage. There is no mechanics lien available to subcontract. Under state statute a developer in this case or a contractor and in this case the developer is the contractor working for the City, needs to post a performance bond in the full amount of the projected contract cost. In that particular case, state statute says that the public property cannot be attached and that the subcontractor's rights are only against the bond that has been posted. It is a completely different process and in that respect you don't face the same mechanic's lien types of issues. In addition to that as my letter has pointed out in working with the City Finance Office and the Solicitor's Office and pursuant to the purchase and development agreement approved by this Board back in 2002 there is a very formalized process for the disbursement of funds that requires first the City's outside consulting engineers to approve disbursements and then the Highway or the Department of Public Works to approve disbursements and the Finance Department to approve disbursements and in that process there are lien and claim waivers with every requisition from contractors and subcontractors. So, I hope in a somewhat abbreviated manner I have pointed out the significant difference between the two and can assure the Aldermen that, in fact, between City Finance and our office these issues have been taken care of.

Alderman Gatsas asked can either Mr. MacKenzie or Mr. Sherman tell me how much additional funds are incorporated on the private sector of that project. I understand where Mr. Marts is going and I appreciate his explanation but I think the City has also invested in the private side of that project unless my memory serves me wrong.

Mr. Sherman asked are you talking about private dollars in the garage.

Alderman Gatsas answered no I am talking about City dollars in the building. Aren't there other...

Mr. Sherman interjected there is some Section 108 money that we are putting into the project.

Alderman Gatsas asked how much are we putting in.

Mr. Sherman answered I believe that is \$500,000.

Alderman Gatsas asked what other funds are going in.



Mr. Sherman answered I don't believe there are any other funds funneled through the City that are going in to that side of the project.

Mr. William Jabjiniak stated Mr. Sherman is correct. \$500,000 of Section 108 money is to be used towards the retail component of the project, the bond monies of up to \$5 million for the construction of the garage and the developer has the substantial portion of approximately \$30 million for the residential component.

Alderman Gatsas asked when you say the full \$30 million, they haven't received the full \$30 million from HUD have they.

Mr. Jabjiniak answered they have a commitment letter.

Alderman Gatsas asked for a full \$30 million.

Atty. Marts answered the number changes literally daily as interest rates change in terms of what is available and I am not handling the HUD financing directly but it is somewhere between the high side of \$29 million and \$30 million.

Alderman Gatsas stated so there is actual public funds in the private sector of this deal so there could be an attachment placed on the retail condominium side because the bond doesn't cover that.

Atty. Marts replied my understanding, Alderman, is that there is actually a bond to cover the HUD financing as well. HUD has significantly different requirements in terms of its financing but they are very similar to what the state requires for a public project like the garage. In that case as well there will be a performance bond posted by the developer.

Alderman Gatsas asked and those bonds will be forwarded to the City...I assume you are going to be closing within the next eight days.

Atty. Marts answered yes we are actually closing on May 27.

A report of the Committee on Human Resources was presented recommending that of the five health plan vendors responding with proposals to the City, Anthem Blue Cross and Blue Shield be selected as the City's health provider. It is anticipated that the Human Resources Director working with Group Benefit Strategies shall return to the Board at a future date with a contract.

The Committee notes that the process of issuing a Request for Proposals has resulted in substantial savings for the City.

Alderman Shea moved to accept the report of the Committee on Human Resources/Insurance. Alderman Smith duly seconded the motion.

Alderman Gatsas asked how much did we save.

Alderman Shea answered over \$541,000.

Alderman Gatsas asked on how much of a plan. What is the total cost of our expenditures for health insurance? About \$13 million?

Ms. Virginia Lamberton, Human Resources Director, stated what we are talking about is what the City contributes not what the whole plan is.

Alderman Gatsas asked what about the whole plan is because that is what the cost of the plan is.

Ms. Lamberton answered no it is not. The cost of the whole plan includes what the employees contribute. What we will be contributing towards the health insurance is \$6,759,437.

Alderman Gatsas asked and what does the employee contribute.

Ms. Lamberton answered depending upon the type of plan they have either 12.5% or 5%.

Alderman Gatsas asked can you give me a dollar amount total.

Ms. Lamberton answered I don't have that with me because it wasn't relevant to what we were doing. We were bidding out what it costs the City to fund our health insurance.

Alderman Gatsas asked are we saying that we are not allowing the employees to participate in the savings.

Ms. Lamberton answered the employees will participate in the savings. As a matter of fact, the average increase for all of the plans, which would be Blue Choice, Matthew Thornton and the Medicom program is .9%. Employees who have Blue Choice and Matthew Thornton will actually see a reduction in their contribution towards their health insurance. Not a large one, it might be 30 cents for some and \$1 for others but they will see a reduction.

Alderman Shea stated I want to commend publicly the representatives, Jack Sherry and Mark and I am not sure of his last name for an excellent presentation. There were two companies, CIGNA as well as Blue Cross. They were relatively close and he was able to do a tremendous job along with Ginny so I feel that we really have benefited from their expertise.

Alderman Gatsas stated I certainly don't have a problem with the direction we are going in but I think maybe now is the time to start exploring self-insuring this plan and what the savings would be there because I think the last time somebody came to us they were talking about \$1 million to \$2 million. Someone should correct me if I am wrong.

Mayor Baines responded we can refer that issue back to the Committee. All we are doing is receiving the report.

Alderman Gatsas stated well I would like to make that motion to send it back to the Committee.

Mayor Baines asked you don't want to accept the report.

Alderman Gatsas answered we can accept the report but I am just saying send it in so they can start looking at self-insuring.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

#### Report of Committee on Traffic/Public Safety.

There were none.

#### Appropriating Resolutions:

“A Resolution appropriating to the Manchester School District the sum of \$138,500,000 for the Fiscal Year 2005' as amended to \$137,499,619.”

“A Resolution appropriating to the Manchester School Food and Nutrition Services Program the sum of \$5,162,270 from School Food and Nutrition Services Revenues for Fiscal Year 2005.”

On motion of Alderman Thibault, duly seconded by Alderman Garrity it was voted to read the Appropriating Resolutions by title only and it was so done.

Alderman Lopez moved that the Appropriating Resolutions be enrolled. Alderman Shea duly seconded the motion.

Alderman Gatsas stated I think that everybody is aware of what is happening in Concord with education funding. I think that if we at least laid this on the table for a week and, your Honor, I know you are probably going to think it is a ploy that we can work and cut this budget but I think it is certainly appropriate that we take a look at what the state is going to be sending for adequacy because some of the numbers that have been talked about up there at \$40 million then we better prepare the taxpayers for taking a hit of not 6% but closer to 10% or 12%. I think that it would certainly be appropriate that we wait and take a look and

see what the prudent business decision would be as we all want to talk about being prudent business decision makers here and certainly custodians of the taxpayers money. We should at least see what is coming from Concord.

Alderman Shea stated my understanding, your Honor, is that a budget was approved in the House of Representatives and went to the Senate. My understanding is in the Committee of Conference they have to agree on a particular number that coincides with that. If they do not agree with that then obviously according to the Claremont settlement I believe there will be a court action taken which obviously will tie up state government to the point whereby the people who are involved with the school funding, the state has to school fund that money first before any state employee is paid or any police or any other agency is paid. That is my understanding. I would defer to Alderman Gatsas. Is that correct?

Alderman Gatsas responded your assumptions are incorrect.

Alderman Shea asked how.

Alderman Gatsas answered the Committee of Conference can come up with any proposal they want.

Alderman Shea replied what I am saying is because of the Claremont funding formula does the state have to fund the state school proposition first before other state employees are paid. Is that correct?

Alderman Gatsas stated the education trust fund must be paid for by general funds first. I agree with your statement but the amount that needs to be distributed is not etched in stone.

Alderman Shea asked is there legislation that would be filed by people in the different city governments that would obviously allow the decision of the Claremont settlement to...that litigation would...in other words the City of Manchester could sue for the amount of money that they are due for an adequate education.

Alderman Gatsas answered no they can't sue for what they think is an adequate education. They can go to the courts and say that they don't believe they are receiving the funding for an adequate education. That doesn't necessarily mean that that is what you are going to do.

Mayor Baines stated I appreciate your comments. We adopted a budget that we felt was fair for the School District. There are a lot of issues going on on the school side and I just want to caution people that they are in a hiring mode right now. We are already several months behind other school districts around the state for replacing teachers and staffing classrooms and things of that nature. I think the state needs to meet its obligation and stop...just deal with the issue and fund education properly and we should hold the state and elected officials

accountable who don't do it. We should pass a budget that is fair to the children of our City. That is prudent.

Alderman DeVries stated actually I would like to ask the City Solicitor for an opinion because I assume he would be the most up-to-date. There was some communication rendered by the State Attorney General about a week or a week and a half ago in reference to what Alderman Shea was trying to address. If the amount of adequacy education was below the Claremont decision levels he felt it was going to trigger a certain chain reaction at the state level. Can you tell me how you think that is going to...what the ramifications would be in Manchester based on the Attorney General's disposition.

Deputy Solicitor Arnold responded I am afraid at this point I could not. I have not read that decision so I couldn't offer an opinion at this time.

Alderman DeVries asked do we have anybody more current in their current events. Certainly it has been in the *Union Leader* and we have been following it.

Mayor Baines stated we sent it out to all of the Board members when we got it. I think as Alderman Gatsas pointed out and all of us know around the state this is a very volatile issue not only politically but constitutionally. My assessment of the situation is if the state does not meet its obligation you are going to have this back before the Supreme Court. There is no question about it. The state has an obligation to adequately fund education and we should act on our own behalf and I have talked to members of the delegation that don't share Alderman Gatsas' opinion about that.

Alderman Lopez stated I was concerned when Alderman Gatsas mentioned this to me that he wanted to hold off but I had a telephone call from Senator D'Allesandro who sits on that Committee of Conference and the way the Committee on Conference is, they have to come out of their unanimously and I am pretty sure that Senator D'Allesandro will not shortchange us so I am comfortable in moving forward.

Alderman Guinta stated I am very concerned about the discussion that is taking place in Concord. I think everybody is. It is fair to say that everybody is concerned because the state adequacy number that Manchester expected or at least was included in the school side of the budget is not a definite number at this point so I think everybody shares the concern. I guess the question I would have is what role is the lobbyist that the City has hired playing in trying to insure the amount of money that we included in our number is going to actually be allocated to the City and have they issued any communications?

Mayor Baines replied well right now it is in Committee of Conference. We have talked to the lobbyist about this issue and Mike Colby has been on the phone with him trying to assess

the situation. He has worked with various people involved with the issue and we are trying to have him advocate on our behalf to make sure that we do get the funding.

Alderman Guinta asked could we get some sort of written status or position from the lobbyist. Would that be appropriate?

Mayor Baines answered the only thing I think the lobbyist is going to tell you and Michael has been a lobbyist, they are going to tell you they are working to try to make sure the votes go our way. That is basically what a lobbyist would tell you.

On motion of Alderman Lopez, duly seconded by Alderman DeVries it was voted to move the question.

Mayor Baines called for a vote on the motion that the Appropriating Resolutions be enrolled. Alderman Gatsas requested a roll call vote. Aldermen Gatsas, Guinta and Garrity voted nay. Aldermen Sysyn, Osborne, Porter, Lopez, Shea, DeVries, Smith, Thibault, Forest, and Roy voted yea. The motion carried.

Alderman Gatsas stated I think that Alderman Lopez should understand and I think that Alderman O'Neil will at least verify what I am telling you is correct that Senator D'Allesandro will sit there and it needs to be a unanimous vote but Alderman O'Neil will tell you that if the vote is 7-1 and the Senate President wants to remove him from that Committee to put somebody else on who will vote in favor of it he can do that. Am I correct, Alderman O'Neil?

Alderman O'Neil replied I don't disagree with what Alderman Gatsas just said but after thinking about this for a good part of tonight we have to draw a line in the sand here and stop being held hostage by the state. They are either properly going to fund education or they are not. Every move we wait on what the education funding from the state is going to be. They should live up to their obligations and properly fund education.

Mayor Baines stated the irony of this whole thing is other than the City of Manchester and the City of Nashua all of the other school districts passed their budgets in March and the state is playing this game on the backs of the local taxpayers across the state instead of head on addressing that issue and adequately funding education and we need to have that voice up in Concord that we expect them to fund it and meet their responsibilities and if people don't fight and vote for it we should vote them out of office. It is as simple as that.

Alderman Lopez stated I completely understand what you said Alderman Gatsas about the Senate President removing an individual but I think it is our responsibility to take care of the City of Manchester and hopefully the state will do the same thing.

Alderman Guinta stated I want to make a quick statement. I understand that tensions are running a little bit high this evening but I don't know that it is quite fair...I don't think your assessment is completely fair. I think that, and I served in the Legislature...you know the Legislature – the House and the Senate, take their jobs seriously. In all fairness the budget that is presented to this Board is not presented until the end of March so to suggest that every other city or small town in the state is passing their school budgets in March, we don't have that opportunity because it is not presented to us until the end of March. I think the House and the Senate are doing everything they can to try to come up with adequate funding for education.

Mayor Baines responded the first part I agree on but the second part I don't agree on and we can leave it at that. The only reason I made that point, Alderman, is the school districts went and adopted budgets based upon a promise that the state had made on a certain level of funding and now they are fiddling around with that funding. That is not fair because cities and towns should be able to plan their budgets. I heard the Governor talk about that quite eloquently that we should know five years out what the funding is going to be so we can plan. The way the State Legislature works is every year they come up with a different formula and that is not fair to communities that have already settled their budget. That is the only reason I mentioned that.

Alderman Guinta replied I would agree with that but there have been several...it is not just the Legislature. You had Claremont I and II and every year thereafter potential lawsuit threats. You have had several different plans that have been put forward by Republicans and by Democrats. Some of the are partisan and some are bi-partisan. I think that just to be fair people have a good intention up in Concord. They are trying to do the best in what they believe is right.

Mayor Baines stated I respect that but I think there should be a little bit more political courage in Concord.

Resolutions:

“Establishing a Manchester School District Capital Projects Expendable Trust.”

“Establishing a Manchester School District Facilities Maintenance and Repair Expendable Trust.”

“Establishing a Manchester School District Health Maintenance Expendable Trust.”

“Establishing a Manchester School District Athletic Equipment Expendable Trust.”

“Establishing a Manchester School District Special Education Expendable Trust.”

On motion of Alderman Shea, duly seconded by Alderman O'Neil it was voted to read the Resolutions by title only, and it was so done.

Alderman Thibault moved that the Resolutions be enrolled. Alderman Shea duly seconded the motion. The motion carried with Alderman Garrity being duly recorded in opposition to all but the last one and Aldermen Gatsas and Guinta being duly recorded in opposition to all of them.

Resolutions:

“Amending the FY 2004 Community Improvement Program, authorizing and appropriating funds in the amount of Seven Hundred Seventy Thousand Dollar (\$770,000) for FY2004 CIP 713204 Public Works ROW Improvement Project.”

“Amending the FY2000 and 2003 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Forty Seven Thousand Three Hundred Fifty Eight Dollars (\$47,358) for FY2003 CIP 610403 Downtown Municipal Infrastructure Project.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Twenty Five Thousand Ninety Eight Dollars and Ninety Eight Cents (\$25,098.98) for FY2004 CIP 510604 Neighborhood Playground Rehabilitation Project.”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Forty Seven Thousand One Hundred Forty Five dollars (\$47,145) for the FY2004 CIP 215004 Environmental Health Tracking Project.”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Thousand Eight Hundred Thirty Three Dollars and Thirty Three Cents (\$20,833.33) for the FY2004 CIP 412104 Homeland Security program (Part II).”

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Fourteen Thousand Nine Hundred Seventeen Dollars (\$14,917) for the FY004 CIP 412204 Enforcing Underage Drinking Laws Project.”

“Authorizing the Finance Officer to effect a transfer of Thirty Four Thousand Six Hundred and Twenty Dollars (\$34,620.00) from Contingency to City Clerk.”

On motion of Alderman O'Neil, duly seconded by Alderman Forest it was voted to dispense with the reading by titles only.

On motion of Alderman Shea, duly seconded by Alderman Sysyn it was voted that the Resolutions be Enrolled.

**NEW BUSINESS**



Alderman Gatsas stated HB426, the Assessors have already left but there is a bill up there that says what we just did for revaluation needs to go to a public hearing. I don't know if they have told you that or not. Have they told you that? I know that the lobbyist was in opposition to it and I didn't see the lobbyist up there fighting for the City's position so I guess we are paying an awful lot of money for a lobbyist that for some reason I haven't seen around Concord lobbying a position for the City. I guess if we are going to take the heat up there we should take the heat down here because we are paying for somebody who is not lobbying the City's position. If you are not aware of it then I guess you ought to make yourself aware of it because there were three bills up there...there was a water bill up there today for fluoride that had a Committee of Conference. I don't know if you had the lobbyist in there lobbying a position of the City.

Alderman Porter asked could I impose on our colleague to provide a copy.

Alderman Gatsas answered it is in the Committee of Conference.

Alderman Roy stated at this time since the Assessors have all left I would ask the Clerk to ask the Assessors to establish a sales price for the Center of NH garage as discussed earlier.

Mayor Baines replied what would be the process we would have to follow.

Deputy Solicitor Arnold stated we would have to follow the surplus property ordinance your Honor.

Mayor Baines asked could you clarify what that would be.

Alderman Lopez stated it would have to go to Lands and Buildings.

Alderman Roy stated I am not asking for a determination of surplus, which would be the liquidation procedure. I am asking for an estimated sales value.

Deputy Solicitor Arnold responded you could certainly do that. As you know under the surplus property ordinance the Assessors are required to give a valuation anyway so it would go towards the process.

Mayor Baines asked so we are just asking the Assessors to come forward with an approximate value. Okay.

Alderman Lopez duly seconded the motion.

Alderman Porter stated if it is for the purposes of selling the building I think it should be referred to the Lands and Buildings Committee.

Alderman Roy replied at this point it is just information only and if we decide to act then we have information.

Alderman Porter stated that could be an awful lot of work for the Assessors...

Mayor Baines interjected what if we get that information and in the same motion refer it to the Committee on Lands and Buildings. Would you agree to that, Alderman?

Alderman Roy answered yes.

Mayor Baines called for a vote on the motion to have the Assessors establish a sales price for the Center of NH garage and refer the matter to the Committee on Lands and Buildings. There being none opposed, the motion carried.

Alderman Gatsas stated I believe we had the Veterans in here this evening and certainly I want to thank them for the service they have done. They were before us some two years ago with regards to medals. What this Board said was that we would follow suit with what the state has done. The state has passed a piece of legislation that says we will send certificates out to members who participated in the war. Representative Pepino led the charge at the state for that and he also led it here for the City so I would like to make a motion at this time that we do the same thing the state is doing and follow a certificate program and I will call for a roll call on that.

Alderman Guinta duly seconded the motion.

Mayor Baines stated the only question I have is is that issue still in Committee.

Deputy Clerk Johnson responded yes.

Mayor Baines stated I support what is being done here but I am curious procedurally since it is in Committee.

Alderman Forest stated in reference to that subject I talked to Representative Pepino earlier today and I did request him to come to my administrative meeting tomorrow night and I was going to ask that it be taken off the table and proposed exactly as what Alderman Gatsas proposed. I will notify Representative Pepino.

Mayor Baines stated I am just questioning procedurally.

Deputy Clerk Johnson responded the Committee has scheduled a meeting and has not advertised that item. Committees have been known to take up other items as a new business item.

Mayor Baines asked can we just take that up as a new business item.

Deputy Clerk Johnson answered the Board can or the Committee can.

Mayor Baines stated I just want to make sure that procedurally we are doing this correctly.

Alderman Gatsas replied I agree because I think Alderman Lopez needs a clarification.

Alderman Lopez stated I don't need a clarification. I think it has been a tabled item for quite awhile and it can be resurfaced. I don't have any objections to it. I think there is a procedure as to what has to transpire once the Governor signs the bill. Offering a certificate to World War II Veterans is one thing. Getting a name is another thing and who is going to be responsible to do that is another thing. I think that should be worked out.

Mayor Baines replied that is an issue. If you are saying that our little operation is going to take that on – we can't take that on so that is going to have to be discussed as to how we are going to handle that administratively and maybe that is a discussion we can have but I definitely support working on that.

Alderman Forest stated the way we talked about it and we were going to mention it tomorrow night is on this TV show we were going to mention Representative Pepino and his address and the City Hall address and if there are Veterans around that want a certificate they can write us or Representative Pepino and he will keep track of the list as we should and then we will issue a certificate.

Mayor Baines stated we can probably set it up on our web site so people can send in that information as well.

Alderman Gatsas requested a roll call.

Deputy Clerk Johnson asked can I just clarify what the motion on the floor is.

Alderman Gatsas stated my motion is that we follow suit with what the pattern of the state has been to issue certificates to participants in World War II.

Mayor Baines stated I think all we need to say is that the City will issue certificates.

Alderman Lopez stated the way he is stating his motion is we haven't seen what the bill is that the Governor is going to sign. The way he is stating that is we are going to be responsible to send out a certificate to every World War II Veteran. Believe me, if anybody can do that I will probably give them a month's pay because they are not going to find all of these people. There has to be a procedure and I think that Alderman Forest said that Representative Pepino is willing to take this on and do this. I have no problem with that.

Mayor Baines asked can we pass the resolution and refer the logistics of it to the Committee to come forward with some regulations. Can we make that as part of the motion?

Alderman Gatsas answered yes.

Mayor Baines called for a roll call vote. Aldermen Gatsas, Guinta, Sysyn, Osborne, Porter, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault, Forest and Roy voted yea. The motion carried.

Alderman O'Neil stated I don't know if all of the Aldermen have received it but the rededication of former Alderman Crotty's monument that the Board support will be this coming Friday at 9:30 AM on Brown Avenue. I believe it is opposite Caldwell Street. There will be a reception hosted by the Fire Department afterwards at Station 7. I appreciate all of the efforts of the Board.

Alderman Smith stated I would just like to ask the City Solicitor...it has been two years now since we had that tragic fire on Notre Dame Bridge. I would like to know if we are in litigation still with Verizon or what the situation is.

Deputy Solicitor Arnold responded we are still in litigation.

Alderman Smith stated the only reason I bring this up is I believe this is bonded money and it could be used for other purposes if there is a settlement. I do personally think that they have a degree of liability without a doubt.

There being no further business, on motion of Alderman Garrity, duly seconded by Alderman DeVries it was voted to adjourn.

A True Record. Attest.

City Clerk